

**TITLE XIX**

**NON-MEMBERS RESIDING IN CHOCTAW INDIAN COUNTRY**

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## CHAPTER 1. RULES GOVERNING RESIDENT NON-MEMBERS

### §19-1-1 Definitions

Certain words used in this title are defined for purposes of this title as follows:

- (1) *Approve* shall mean to decide if a permit is to be issued.
- (2) *Issue* or *Issuance* means the administrative process of the tribe providing a permit to a non-Member.
- (3) *Member* shall mean a person who is an enrolled member of the Mississippi Band of Choctaw Indians.
- (4) *Non-Member of Mississippi Band of Choctaw Indian Descent* shall mean a person of one-fourth or more Mississippi Band of Choctaw Indian blood who is not a *Member*, but who has at least one parent or grandparent who is a *Member*.
- (5) *Other Indian* shall mean a person who is not a *Member* and who does not qualify as a *Non-Member of Mississippi Band of Choctaw Indian Descent*, but who is otherwise an “Indian” subject to federal criminal prosecution under 18 U.S.C. § 1153 and to Mississippi Band of Choctaw Indian criminal prosecution under § 1-5-8(1) Choctaw Tribal Code. This includes, but is not limited to, enrolled members of any other federally-recognized Indian tribe.
- (6) *Non-Member* means a person (whether other Indian or non-Indian) who is neither a *Member* nor a *Non-Member of Mississippi Band of Choctaw Indian Descent*.
- (7) *Permit* shall mean a certificate, card, or other appropriate identification evidencing the approval of the tribe for a particular *Non-Member* to reside in Choctaw Indian Country.
- (8) *Reside* shall mean for purposes of this title to live in Choctaw Indian Country for more than ten days within any 12-month period.
- (9) *Sponsor* shall mean a *Member* who signs the application of a *Non-Member* indicating the member’s desire that the *Non-Member* be approved for residence in Choctaw Indian Country.

### §19-1-2 Requirement of a Permit

A *Non-Member* may not reside within the Indian Country, as defined in 18 U.S.C. § 1151, of the Mississippi Band of Choctaw Indians unless such person has first obtained a valid permit from the Secretary-Treasurer of the tribe in accordance with this title. Neither *Members* nor *Non-Members of Mississippi Band of Choctaw Indian Descent* as defined above are required to obtain such a permit.

**§19-1-3      Permit Procedure**

- (a) Application: A *Non-Member* must apply for a permit to reside on Choctaw Indian Country by applying in writing to the Permitting Officer of the tribe. Such application must include the *Non-Member's* name, last address, U.S. citizenship or resident alien status, any evidence of American Indian ancestry or enrollment in a federally-recognized Indian tribe, age, Social Security number, record of criminal arrests and convictions, place of employment, and the specific name and address of the person in whose residence the *Non-Member* contemplates residing. Applications for permits as required by § 19-1-2 shall also include a certified copy of a marriage license, birth certificate, or adoption papers, as appropriate, demonstrating that the condition(s) of § 19-1-4 are satisfied. Applications for permits shall also contain a statement as to why the *Non-Member* desires to reside on the Choctaw Indian Reservation. The information in the application shall be sworn under oath. All applications must also be signed by a *Sponsor*.
- (b) Denial of Application: Applications that are not acted upon by the Secretary-Treasurer or the Chief, pursuant to §19-1-4 and 19-1-6 respectively, within sixty (60) calendar days of the date of the application shall be deemed denied, and the time for appeal shall commence on the sixty-first (61<sup>st</sup>) calendar day after the date of application, exclusive of the date of application. This same appeal deadline will apply in the event a renewal application is expressly denied. Appeal procedures are set out at §§ 19-1-5 to 19-1-7
- (c) Duration: A permit issued under this section shall be effective for a period of two years from the date of issue. The cost of the issuance of the initial permit is One-Hundred (\$100.00) Dollars. The permit shall be renewed without further reapplication upon the filing of a request for renewal with the Secretary-Treasurer of the tribe and the payment of the renewal fee of One-Hundred (\$100.00) Dollars. In the event that the name or address of the person in whose residence the *Non-Member* resides changes or there is a change of sponsor then a new application shall be required. The initial registration fee and the renewal fee are not refundable in the event the permit is denied. Permit fees shall be waived for Indians enrolled in any other Federally recognized Indian tribe.
- (d) Penalties: In the event a *Non-Member* residing on the Choctaw Indian Reservation fails to secure a permit or fails to renew a permit, they shall be afforded fifteen calendar (15) days after notification by the Department of Public Safety to correct the violation. If such *Non-Member* fails to register or to renew the permit, then

they will be subject to Exclusion pursuant to the provisions of Title XX of the Choctaw Tribal Code.

**§19-1-4      Approval by Secretary-Treasurer**

The Secretary-Treasurer of the Mississippi Band of Choctaw Indians shall approve and issue a permit to a *Non-Member* authorizing the *Non-Member* to reside in Choctaw Indian Country if, and only if, the following conditions are met:

- a) the sponsor submits evidence documenting that the *Non-Member* is a U.S. citizen or a lawful resident alien;
- b) [deleted];
- c) that any adult *Nonmember* applicant must provide proof of retirement or employment, disability, or enrollment and attendance in school;
- d) one of the following conditions is met:
  - (1) The *Non-Member* is legally married to a *Member* as proven pursuant to Title IX of the Choctaw Tribal Code and the *Member* signs the *Non-Member's* application for residence privileges as the *Sponsor*;
  - (2) The *Non-Member* is legally married to a *Member* and has a valid marriage license from a foreign jurisdiction and the *Member* spouse signs the *Non-Member's* application for residence privileges as the *Non-Member's* sponsor;
  - (3) The *Non-Member* is a minor and is the adopted child, stepchild, foster child, grandchild, niece or nephew of a *Member*, but does not qualify as a *Non-Member of Mississippi Band of Choctaw Indian Descent* and the *Member* sponsors the child's residence application;
  - (4) The *Non-Member* has a *Sponsor* who is an adult biological or adoptive progeny;
  - (5) The *Non-Member* has a *Sponsor* who is the sibling or parent of the *Non-Member's* tribal member spouse who is deceased; or
  - (6) The *Non-Member* has a *Sponsor* who is the sibling or parent of the *Non-Member's* divorced tribal member spouse;
- (e) the applicant is not convicted, plead guilty, or found nolo contendere of any felony, any crime requiring registration as a sex offender, or any violent crime in any jurisdiction; and
- (f) the applicant is not subject to an exclusion order pursuant to Title XX.

The Secretary-Treasurer shall not approve *Non-Member* residence permits in any other situations.

For the purposes of this section a person shall be considered employed if they are a married spouse of the *Sponsor* or the widow of a tribal member, and remain at home to care for the biological or adoptive children of the afore mentioned tribal member.

For the purposes of this section a person shall be considered disabled if they are permanently disabled, with a doctor's certification, or temporarily disabled by reason of severe illness or injury if a doctor certifies that the person is incapable of working for a period of ninety (90) days or more.

**§19-1-5      Appeal of Secretary-Treasurer's Decision**

The *Non-Member* making application pursuant to § 19-1-3, or the *Non-Member* applicant's *Sponsor*, may appeal the decision of the Secretary-Treasurer to approve or to not approve a permit under § 19-1-4 by making such appeal to the Chief, and a certified copy of such appeal to the Permitting Officer. Such appeal must be made in writing within ten (10) calendar days of the action, whether a denial by inaction or an express denial, per § 19-1-3(b), taken by the Secretary-Treasurer, which appeal shall be considered by the Chief.

**§19-1-6      Approval by Chief**

The Chief may issue a permit to a *Non-Member* not meeting the conditions of § 19-1-4 to reside in Choctaw Indian Country on a case by case basis if the Chief determines that such action would be in the best interest of the tribe or of a *Member*.

**§19-1-7      Appeal of the Chief's Decision**

The *Non-Member* making application for a permit under this Ordinance or *Member* who is dissatisfied with the decision of the Chief in not approving a permit may appeal the decision of the Chief to the Tribal Council, with a certified copy to the Permitting Officer, and the Tribal Council may override the Chief's decision with respect to that particular *Non-Member* by a majority vote. Such appeal must be made in writing within ten (10) calendar days of the Chief's decision in order to be considered by the Council. Any appeal to the Tribal Council will be deemed denied by inaction if it is not received by the close of the next regular call session of the Tribal council, if an appeal is tabled it will be denied by inaction at the close of the next called meeting, whether regular or special call session, if not acted upon by the Tribal Council.

**§19-1-8      Nature of Permit**

All permits issued under this Ordinance shall be revocable at will for any reason or for no reason. The issuance of a permit under this title shall be considered a privilege and not a vested right. The Tribal Council, in its discretion, may revoke a permit issued pursuant to this title at any time. Actions taken by the Council to grant or deny permits under this Ordinance shall be deemed to have been carried out in the Council's capacity as the final decision-maker for the Tribe as beneficial owner of all Mississippi Choctaw reservation lands and as to all reservation land use/land management issues. Such actions shall not be deemed to constitute legislative actions taken by the Tribal Council in its legislative capacity.

**§19-1-9        No Right of Action Created**

The denial or revocation of a permit under this title shall not give any person a right of an action at law or equity in any court.

**§19-1-10       Civil Penalty**

Any person who knowingly aids and abets a person to be non-compliant with this title shall be assessed a Five Hundred dollar (\$500.00) civil fine.

**§19-1-11       Fees**

All fees shall be collected by the Finance Office and shall be deposited into the general fund accounts of the Tribe. The Chief, in his discretion, may authorize the Department of Public Safety to be reimbursed for costs associated with this Title, up to the total amount of fees collected and not previously withdrawn.