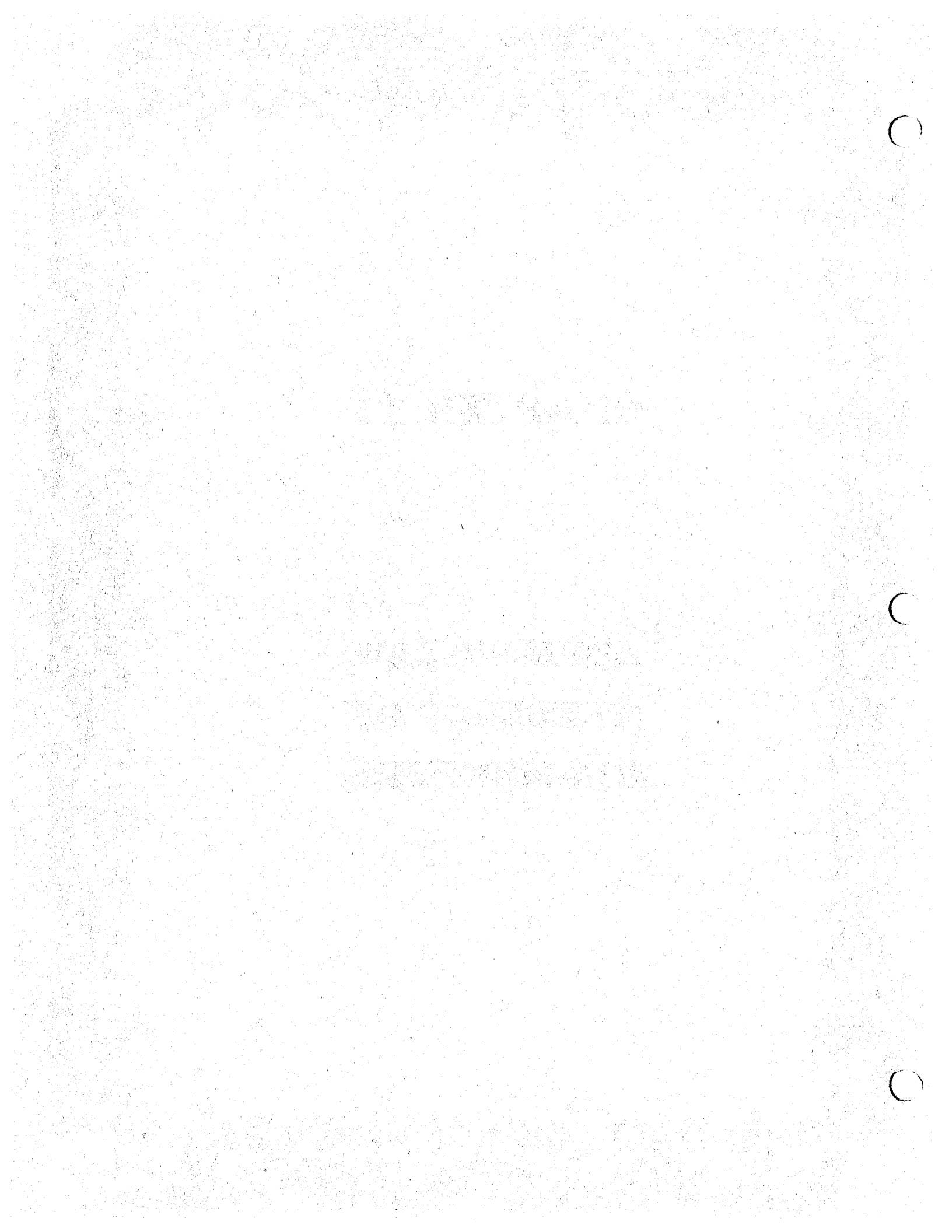




CHAPTER 11

**ADRIAN'S LAW
(PRESENCE OF
NON-MEMBERS)**



ADRIAN'S LAW

This law is written in the memory of Adrian Loring who was murdered on Indian Island in 1979. Adrian was killed by a non-member with a questionable background. This law is intended to prevent such a tragedy from ever happening again by putting in place clear standards and procedures to protect our citizens. We exercise this right under our exclusive jurisdiction to determine residency which also includes authority to control the presence of non-members within Penobscot Indian territory. Except as specifically set forth in this law, non-members are not allowed to reside within Penobscot Indian territory. The Chief and Council of the Penobscot Nation are hereby authorized to exercise all powers and rights of the Penobscot Nation in relation to the presence and residency of non-members at or within Penobscot Indian territory, consistent with the provisions set forth herein, except as otherwise expressly provided in applicable tribal law. All decisions of the Chief and Council pursuant to this law are final and not subject to review or appeal; provided, however, the Chief and Council can reconsider any action as it deems appropriate in its sole discretion.

Section 1 - Visitation: Defined as any non-member staying in Penobscot Indian territory overnight for any period up to 3 consecutive nights; provided, however, that a non-member can apply for a special visitation permit for up to a 2 week period once in any calendar year.

Any non-member wishing to stay overnight within Penobscot Indian territory for any period up to 3 consecutive nights or requesting a special visitation permit must fill out a visitation form at the Penobscot Nation Police Department stating their purpose for being present within Penobscot Indian territory and must have a tribal member sponsor. This form serves as permission for the Penobscot Nation to conduct any and all background checks on the individual. Based on the background check results any individual may be denied visitation or have it revoked. (See Section 3 below, Automatic Denial)

Section 2 - Non-member Residency: Defined as any non-member staying within Penobscot Indian territory for 4 or more consecutive nights except those non-members exempted under Section 7 below or receiving a special visitation permit as provided in Section 1 above.

Any non-member except those exempted under Section 7 below or receiving a special visitation permit as provided in Section 1 above must receive approval from the Chief and Council prior to residing within Penobscot Indian territory. The non-member must complete the request for residency application and return it to the Tribal Clerk's office. Residency applications will be kept and monitored by the Tribal Clerk, and all applicants must sign out the application with the Tribal Clerk. The residency application serves as permission for any and all background checks on the applicant. Based on the background

check results any individual may be denied residency. (See Section 3 below, Automatic Denial)

The residency permit shall specify the date of issuance, the date of expiration and any terms and conditions placed on the applicant. The Chief and Council have full discretion to place any terms or conditions for residency in the permit.

Section 3 - Automatic Denial: Any applicant who has any of the following background issues will be automatically denied visitation and/or residency within Penobscot Indian territory or if already receiving a permit such permit will automatically be revoked:

- Any conviction for drug trafficking or the illegal sale of alcohol within 15 years of the date of application.
- Any conviction for a drug trafficking offense coupled with other drug related charges no matter when the offenses occurred.
- Any conviction involving the sexual abuse of a minor.
- Any conviction for a felony violent crime on a person within 15 years of the date of application.
- Any conviction for a sex offense.
- Any conviction involving domestic violence.
- Any previous felony within the last 10 years

If it is determined that a non-member exempted under Section 7 has any of these background issues, the Chief and Council will conduct a hearing as soon as practicable to decide whether such non-member should be removed pursuant to Section 6(D) of this law. Any such non-member will be notified by certified mail at least 72 hours prior to the hearing time.

As stated above, there is no review or appeal for any decision of the Chief and Council pursuant to this law. Further, there is no review or appeal for any automatic denial or revocation of residency and/or visitation pursuant to this Section 3:

Section 4 - Other Definitions:

A – “Non-Member” means any person who is not an enrolled member of the Penobscot Nation according to the current census of the Penobscot Nation.

B – “Penobscot Indian territory” as defined in title 30 M.R.S.A Section 6205, including any amendments.

Section 5 - Hearing on Residency Application: An applicant and sponsor must appear before Chief and Council on the date and time of consideration of the residency application. The applicant will be notified by certified mail at least 72 hours prior to the hearing time, and the hearing and the name of the non-member shall be listed as an agenda item on the Chief and Council agenda for that meeting.

Section 6 - Trespassers:

A - Non-member without permit: Any non-member residing or visiting within Penobscot Indian territory without a valid permit will be considered a trespasser and will be asked to leave until he/she has gone through the process for a permit as set forth in this law. If a non-member has been denied a residency permit and is present within Penobscot Indian territory then a notice of removal will be issued immediately to such non-member by the Chief or in his absence the Vice Chief.

B - Notice of Removal: Any non-member served with a notice of removal shall immediately leave Penobscot Indian territory and failure to do so or if they return without written permission from the Chief shall subject them to prosecution and/or suit.

C - Permit revocation: Upon a finding by the Chief and Council that a permit should be revoked for any reason other than as set forth in D of this section immediately below, that non-member will receive a notice of revocation stating the reasons therefore and a time and place to appear before the Chief and Council to show cause as to why the permit should not be revoked. Failure to appear will result in the issuance of a removal order.

D – Non-member whose presence threatens the health, safety or welfare of the Penobscot Nation: Notwithstanding any other provisions herein, upon a finding by the Chief, based on advice of the Chief of Police, that a non-member within Penobscot Indian territory threatens the health, safety and welfare of the Penobscot Nation, the Chief may cause a notice of removal to be served on that individual(s). The finding will be set forth in the notice of removal.

E – Hearing: Any non-member served with a notice of removal shall have the right to a hearing before the Chief and Council, provided a request for hearing is sent via certified mail to the Office of the Chief and postmarked no later than (10) days from receipt of the notice of removal. The request for hearing must include a return address for delivery of mail. Upon receipt of the request for hearing, the Chief will schedule a hearing before the Chief and Council and serve notice on the non-member by certified mail with the date, time, and place of hearing, including a copy of this law, and the hearing and the name of the non-member shall be listed as an agenda item on the Chief and Council agenda for that meeting. Failure to submit a request for hearing as provided above will extinguish the right to hearing before the Chief and Council.

F - Right to return after service of removal: Any non-member served with a notice of removal may return to Penobscot Indian territory only for purposes of the hearing before the Chief and Council on the matter of their removal or otherwise with the written permission of the Chief.

Section 7 - Exemptions: Any non-member who is a legal spouse, parent, sibling or child of an enrolled member shall be exempt from the visitation permit requirement, and if living in the residence of their enrolled member relative shall also be exempt from the residency permit requirement. **Such exempt non-members, however, remain subject to removal pursuant to Section 6(D).**

Section 8 - Violations:

A – Violation: Prosecution of this law shall be pursuant to 30 M.R.S.A. 6206(3). Any person found to be in violation of this law shall be subject to a fine of not less than \$1000 for each violation. Any tribal member that knowingly allows or assists a non-member to violate this law shall be subject to a civil fine of not less than \$500 for each violation.

B - Criminal Prosecution: Non-members who refuse to leave Penobscot Indian territory after receiving notice to do so will be subject to criminal prosecution.

Section 9 - Service: Whenever under this law a paper or notice is to be served upon a non-member such service shall be made in hand. Service will be made by any law enforcement official of the Penobscot Nation. Upon making service, the law enforcement official shall write the date, time, place, to whom served and the method of service upon the document and on the original document and return that original to the Tribal Clerk.

Section 10 - Posting of law: Legible copies of this law will be posted in at least one conspicuous location within Penobscot Indian territory, and it will be posted on Indian Island at the Tribal Court, Tribal Clerk's office and the Penobscot Nation Police Department.