

**MODEL TRIBAL SEX OFFENDER  
REGISTRATION CODE/ORDINANCE  
(SORNA COMPLIANT TEMPLATE LANGUAGE)**

[NAME OF TRIBE]



The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) is pleased to be able to provide this Template Tribal Sex Offender Registry Code/Ordinance for use by tribes in complying with the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248). It must be emphasized, however, that this document is intended to serve only as a template, and to provide information that each tribe should consider as it determines how to comply with SORNA. Tribes need not pass this code/ordinance in order to comply with SORNA. However, this document does state what is required for compliance with SORNA. This document also includes notes highlighted in bolded text that are intended to provoke tribal leaders to consider other relevant issues as they meet to discuss any potential code/ordinance development.

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## CHAPTER 1 GENERAL MATTERS

### SECTION 1.01 TITLE

This Code/Ordinance shall be known as **[insert name here]**.

### SECTION 1.02 PURPOSE

The intent of this code is to implement the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended.

**NOTE: The inclusion of this section is not required by SORNA. SORNA establishes a national baseline for sex offender registration and notification programs. In other words, SORNA generally constitutes a set of minimum national standards and sets a floor, not a ceiling, for jurisdictions' programs. Therefore, your tribe may have a sex offender registration system that exceeds the national standards.**

### SECTION 1.03 NEED

Violent crime in Indian Country is more than twice the national average. On some reservations it is twenty times the national average. An astounding thirty percent of Indian and Alaska Native women will be raped in their lifetimes. Tribal nations are disproportionately affected by violent crime and sex offenses in particular from both Indian and non-Indian perpetrators; consequently, the conduct and presence of convicted sex offenders in Indian Country threatens the political integrity, economic security, health and welfare of tribal nations even to the point of imperiling the subsistence of tribal communities.

**NOTE: The inclusion of this section is not required by SORNA. It is recommended that you first analyze the needs of your particular community without reference to the requirements of SORNA and personalize this section to fit your tribe. Consider gathering statistics through available resources and answering the following questions:**

- **How many registered sex offenders are currently residing within the boundaries of your reservation? The state system may have some of the information you need if there is no tribal system.**
- **How many of the sex offenders are in compliance with the current registration requirements?**
- **Is there a problem with the current system of monitoring and registering sex offenders? If so, describe the problems. Are there changes in the current system that could solve these problems? Do any of the solutions require changes in the tribal law? (Sometimes changes are needed in protocol and not the law.) If so, document the changes needed.**
- **Does the current system provide appropriate notification to the community of dangerous sex offenders? Are there problems with the notification system? What is working well? Describe the problems. Are changes needed in the tribal law? If so, document the changes needed.**

SECTION 1.04 CREATION OF REGISTRIES

- A. Sex Offender Registry. There is hereby established a sex offender registry, which the [responsible agency name] shall maintain and operate pursuant to the provisions of this code, as amended.
- B. Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, which the [responsible agency name] shall maintain and operate pursuant to the provisions of this code, as amended.

CHAPTER 2 TERMINOLOGY AND COVERED OFFENSES

SECTION 2.01 DEFINITIONS

The Definitions below apply to this [Code/Ordinance] only.

- A. Convicted. An adult sex offender is “convicted” for the purposes of this code if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.

A juvenile offender is “convicted” for purposes of this code if the juvenile offender is either:

1. Prosecuted and found guilty as an adult for a sex offense; or
2. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in either (a) or (b) of section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.

**NOTE: See pages 15-16 of the June 2008 “National Guidelines for Sex Offender Registration and Notification” for additional explanation.**

- B. Foreign Convictions. A foreign conviction is one obtained outside of the United States.
- C. Employee. The term “employee” as used in this code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.
- D. Immediate. “Immediate” and “immediately” mean within 3 business days.
- E. Imprisonment. The term “imprisonment” refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state “prison” as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal “jail”. Persons under “house arrest” following conviction of a covered sex offense are required to register pursuant to the provisions of this code during their period of “house arrest”.
- F. Jurisdiction. The term “jurisdiction” as used in this code refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe.
- G. Minor. The term “minor” means an individual who has not attained the age of 18 years.
- H. Resides. The term “reside” or “resides” means, with respect to an individual, the location of the individual’s home or other place where the individual habitually lives or sleeps.

**NOTE: Your tribe may want to specifically address additional issues in the definition of “resides” to include a visitor clause, vacation homes, and hunting cabins etc.**

I. Sex Offense. The term “sex offense” as used in this code includes those offenses contained in 42 U.S.C. §16911(5) and those offenses enumerated in Section 2.02 of this Code/Title or any other covered offense under tribal law.

An offense involving consensual sexual conduct is not a sex offense for the purposes of this [Code/Ordinance] if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.

J. Sex Offender. A person convicted of a sex offense is a “sex offender”.

K. Sexual Act. The term “sexual act” means:

1. contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
4. the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

L. Sexual Contact. The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of another person.

M. Student. A “student” is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.

**NOTE: Your tribe may want to consider specifically including interns, externs and apprentices in the definition of student.**

N. SORNA. The Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248), 42 U.S.C. §16911 *et. seq.*, as amended.

O. Sex Offender Registry. The term “sex offender registry” means the registry of sex offenders, and a notification program, maintained by [responsible agency name].

P. National Sex Offender Registry (NSOR). The national database maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16919.

Q. SMART Office. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. §16945.

R. Dru Sjodin National Sex Offender Public Website (NSOPW). The public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.

S. “Tier 1 Sex Offender”. A “tier 1 sex offender”, or a “sex offender” designated as “tier 1”, is one that has been convicted of a “tier 1” sex offense as defined in section 3.01.

- T. “Tier 2 Sex Offender”. A “tier 2 sex offender”, or a “sex offender” designated as “tier 2”, is one that has been either convicted of a “tier 2” sex offense as defined in section 3.02, or who is subject to the recidivist provisions of 3.02(B).
- U. “Tier 3 Sex Offender”. A “tier 3 sex offender”, or a “sex offender” designated as “tier 3”, is one that has been either convicted of a “tier 3” sex offense as defined in section 3.03, or who is subject to the recidivist provisions of 3.03(B).

**SECTION 2.02            COVERED OFFENSES**

Individuals who reside within the exterior boundaries of the reservation or otherwise reside on property owned by the tribe in fee or trust regardless of location, are employed within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, or who attend school within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, that have been convicted of any of the following offenses, or convicted of an attempt or conspiracy to commit any of the following offenses, are subject to the requirements of this code:

**NOTE: You may want to alter the above language to conform to the specifics of your tribe or reservation.**

A. Tribal offenses.

**NOTE: Tribes are encouraged to list the covered tribal offenses.**

B. Federal Offenses. A conviction for any of the following, and any other offense hereafter included in the definition of “sex offense” at 42 U.S.C. §16911(5):

1. 18 U.S.C. §1591 (sex trafficking of children),
2. 18 U.S.C. §1801 (video voyeurism of a minor),
3. 18 U.S.C. §2241 (aggravated sexual abuse),
4. 18 U.S.C. §2242 (sexual abuse),
5. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
6. 18 U.S.C. §2244 (abusive sexual contact),
7. 18 U.S.C. §2245 (offenses resulting in death),
8. 18 U.S.C. §2251 (sexual exploitation of children),
9. 18 U.S.C. §2251A (selling or buying of children),
10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
11. 18 U.S.C. §2252A (material containing child pornography),
12. 18 U.S.C. §2252B (misleading domain names on the internet),
13. 18 U.S.C. §2252C (misleading words or digital images on the internet),
14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the U.S.),
15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
16. 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity),

17. 18 U.S.C. §2423 (Mann Act),
18. 18 U.S.C. §2424 (failure to file factual statement about an alien individual),
19. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

C. Foreign Offenses. Any conviction for a sex offense involving any conduct listed in this Section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

**NOTE: Your Tribal Council should consider whether it wants to require offenders convicted in other foreign countries to register, too.**

D. Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. 951 note).

E. Juvenile Offenses or Adjudications. Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241) and committed by a minor who is 14 years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.

**NOTE: To meet the minimum standards of compliance under SORNA, jurisdictions are not required to register juveniles adjudicated delinquent of a SORNA sex offense simply because it involves a sexual act with a person under 12 (18 USC § 2241(c)), without more. Your tribe's Code/Ordinance should make clear how this group of juveniles will be treated under your tribe's sex offender registry code.**

F. Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including this tribe, that involves:

1. Any type or degree of genital, oral, or anal penetration,
2. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing,
3. Kidnapping of a minor,
4. False imprisonment of a minor,
5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
6. Use of a minor in a sexual performance,
7. Solicitation of a minor to practice prostitution,
8. Possession, production, or distribution of child pornography,
9. Criminal sexual conduct that involves physical contact with a minor or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,



10. Any conduct that by its nature is a sex offense against a minor, or
11. Any offense similar to those outlined in:
  - a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
  - b. 18 U.S.C. §1801 (video voyeurism of a minor),
  - c. 18 U.S.C. §2241 (aggravated sexual abuse),
  - d. 18 U.S.C. §2242 (sexual abuse),
  - e. 18 U.S.C. §2244 (abusive sexual contact),
  - f. 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution), or
  - g. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

**NOTE: Your tribe may substitute the following definition of “sex offense” in lieu of Section 2.02 A-F or you may want to consider moving the following definition of “sex offense” to the “Definitions Section” of this Code/Ordinance.**

**“Sex Offense”**

A. Except as limited by subparagraph 6 or 7, the term “sex offense” means:

1. A criminal offense that has an element involving a sexual act or sexual contact with another;
2. A criminal offense that is a “specified offense against a minor”. The term “specified offense against a minor” means an offense against a minor that involves any of the following:
  - a. An offense (unless committed by a parent or guardian) involving kidnapping.
  - b. An offense (unless committed by a parent or guardian) involving false imprisonment.
  - c. Solicitation to engage in sexual conduct.
  - d. Use in a sexual performance.
  - e. Solicitation to practice prostitution.
  - f. Video voyeurism as described in 18 U.S.C. §1801.
  - g. Possession, production, or distribution of child pornography.
  - h. Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.
  - i. Any conduct that by its nature is a sex offense against a minor;
3. A Federal offense (including an offense prosecuted under section 1152 or 1153 of Title 18 of the United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of Title 18 of the United States Code;
4. A military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or

5. An attempt or conspiracy to commit an offense described in clauses (1) through (4).

**NOTE: The following registration exemption is permitted by the Act; your tribe should consider whether or not to include the following offenses in the tribe's [Code/Ordinance].**

6. Offenses involving Consensual Sexual Conduct. An offense involving consensual sexual conduct is not a sex offense for the purposes of this [Code/Ordinance] if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.
7. Foreign Offenses. A foreign conviction is not a sex offense for the purposes of this code/ordinance unless it was either:
  - a. obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or
  - b. under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

### CHAPTER 3. TIERED OFFENSES

**NOTE: The use of the “tier” classifications in SORNA relates to substance, not form or terminology. Thus, to implement the SORNA requirements, jurisdictions do not have to label their sex offenders as “tier I,” “tier II,” and “tier III,” and do not have to adopt any other particular approach to labeling or categorization of sex offenders. Rather, the SORNA requirements are met so long as sex offenders who satisfy the SORNA criteria for placement in a particular tier are consistently subject to at least the duration of registration, frequency of in-person appearances for verification, and extent of website disclosure that SORNA requires for that tier.**

**For example, suppose a jurisdiction decides to subject all sex offenders to lifetime registration, quarterly verification appearances, and full website posting as described later in this document. That would meet the SORNA requirements with respect to sex offenders satisfying the “tier III” criteria, and exceed the minimum required by SORNA with respect to sex offenders satisfying the “tier II” or “tier I” criteria. Thus, a jurisdiction would be able to implement the SORNA requirements with respect to all sex offenders without any labeling or categorization, and without having to assess individual registrants against the tier criteria in the SORNA definitions. Likewise, any other approach a jurisdiction may devise is acceptable if it ensures that sex offenders satisfying the criteria for each SORNA tier are subject to duration of registration, appearance frequency, and website disclosure requirements that meet or exceed those SORNA requires for the tier.**

*If your tribe is considering making all sex offenders subject to lifetime registration, consider the commitment of additional costs and personnel time that will be necessary to meet the requirements of SORNA.*

#### SECTION 3.01 TIER 1 OFFENSES

- A. Sex Offenses. A “Tier 1” offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that is not a “Tier 2” or “Tier 3” offense.

- B. Offenses Involving Minors. A “Tier 1” offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 2.02(C) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- C. Tribal Offenses. Any sex offense covered by this act where punishment was limited to one year in jail shall be considered a “Tier 1” sex offense.

**NOTE: Because the definitions of tier 2 and tier 3 are limited to certain offenses punishable by imprisonment for more than one year, and the Indian Civil Rights Act does not permit imprisonment for more than one year based on tribal court convictions, all tribal court convictions are tier 1 offenses. However, sex offenses prosecuted in tribal courts may be serious crimes that would typically carry higher penalties if prosecuted in non-tribal jurisdictions. As the incidents of the tier classifications under SORNA only define minimum standards, your tribe and other jurisdictions are free to premise more extensive registration and notification requirements on tribal court convictions than the minimum SORNA requires for tier 1 offenders, and may wish to do so considering the substantive nature of the offense or other facts. If the tribe does so, the language of 3.01(C) will need to be amended accordingly.**

**Regardless of which jurisdiction convicts the sex offender, the requirements with respect to the potential length of imprisonment under the statute relate to individual offenses rather than to aggregate penalties. For example, suppose that a sex offender charged in three counts with the commission of sex offenses each of which is punishable by at most one year of imprisonment, and upon conviction is sentenced to three consecutive terms of six months of incarceration. Though the aggregate penalty is 18 months, these convictions do not place the sex offender above tier I, because each offense was not punishable by more than one year of imprisonment.**

- D. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a “Tier 1” offense:
  - 1. 18 U.S.C. §1801 (video voyeurism of a minor),
  - 2. 18 U.S.C. §2252 (receipt or possession of child pornography),
  - 3. 18 U.S.C. §2252A (receipt or possession of child pornography),
  - 4. 18 U.S.C. §2252B (misleading domain names on the internet),
  - 5. 18 U.S.C. §2252C (misleading words or digital images on the internet),
  - 6. 18 U.S.C. §2422(a) (coercion to engage in prostitution),
  - 7. 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct),
  - 8. 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places),
  - 9. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), or
  - 10. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
- E. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 3.01(A),(B), or (C) shall be considered a “Tier 1” offense.

### SECTION 3.02 TIER 2 OFFENSES

**NOTE: If your tribe has deemed certain covered offenses to be tier 2 offenses, the tribal codes/ordinances should be listed in this section.**

A. Recidivism and Felonies. Unless otherwise covered by Section 3.03, any sex offense that is not the first sex offense for which a person has been convicted and that is punishable by more than one year in jail is considered a “Tier 2” offense.

**NOTE: Your tribe must consider if it wants to include similar language to cover habitual offenders as the Indian Civil Rights Act limits tribal court convictions to a maximum of one year imprisonment.**

B. Offenses Involving Minors. A “Tier 2” offense includes any sex offense against a minor for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:

1. The use of minors in prostitution, including solicitations,
2. Enticing a minor to engage in criminal sexual activity,
3. Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body,
4. The use of a minor in a sexual performance, or
5. The production or distribution of child pornography.

C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a “Tier 2” offense:

1. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
2. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
3. 18 U.S.C. §2244 (Abusive sexual contact, where the victim is 13 years of age or older),
4. 18 U.S.C. §2251 (sexual exploitation of children),
5. 18 U.S.C. §2251A (selling or buying of children),
6. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
7. 18 U.S.C. §2252A (production or distribution of material containing child pornography),
8. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
9. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
10. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution),
11. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 3.02(A),(B), or (C) shall be considered a “Tier 2” offense.

### SECTION 3.03 TIER 3 OFFENSES

A. Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction for a Tier 2 sex offense, or has previously become a Tier 2 sex offender, is a “Tier 3” offense.

B. General Offenses. A “Tier 3” offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:

1. Non-parental kidnapping of a minor,
2. A sexual act with another by force or threat,
3. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate, or
4. Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.

C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a “Tier 3” offense:

1. 18 U.S.C. §2241 (a) and (b) (aggravated sexual abuse),
2. 18 U.S.C. §2242 (sexual abuse), or
3. Where the victim is 12 years of age or younger, 18 U.S.C. §2244 (abusive sexual contact).

D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 3.03(A),(B), or (C) shall be considered a “Tier 3” offense.

## **CHAPTER 4 REQUIRED INFORMATION**

### **SECTION 4.01 GENERAL REQUIREMENTS**

**NOTE: Some of this entire chapter may or may not apply to your tribe depending on any cooperative agreement and/or memorandum of understanding that may be entered into with the state(s).**

- A. Duties. A sex offender covered by this code who is required to register with the tribe pursuant to Chapter 5 shall provide all of the information detailed in this chapter to the [**responsible agency name**], and the [**responsible agency name**] shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with the tribe in accordance with this code and shall implement any relevant policies and procedures.
- B. Digitization. All information obtained under this code shall be, at a minimum, maintained by the [**responsible agency name**] in a digitized format.
- C. Electronic Database. A sex offender registry shall be maintained in an electronic database by the [**responsible agency name**] and shall be in a form capable of electronic transmission.

### **SECTION 4.02 CRIMINAL HISTORY**

- A. Criminal History. The [**responsible agency name**] or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender’s criminal history:
  1. The date of all arrests,
  2. The date of all convictions,

3. The sex offender's status of parole, probation, or supervised release,
4. The sex offender's registration status, and
5. Any outstanding arrest warrants.

#### SECTION 4.03 DATE OF BIRTH

- A. Date of Birth. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:
1. The sex offender's actual date of birth, and
  2. Any other date of birth used by the sex offender.

#### SECTION 4.04 DNA SAMPLE

- A. DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the **[responsible agency name]** or designee a sample of his DNA.
- B. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.

#### SECTION 4.05 DRIVER'S LICENSES, IDENTIFICATION CARDS, PASSPORTS, AND IMMIGRATION DOCUMENTS

- A. Driver's License. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.
- B. Identification Cards. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.
- C. Passports. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.
- D. Immigration Documents. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

#### SECTION 4.06 EMPLOYMENT INFORMATION

- A. Employment. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:
1. The name of the sex offender's employer,
  2. The address of the sex offender's employer, and
  3. Similar information related to any transient or day labor employment.

#### SECTION 4.07 FINGER AND PALM PRINTS

- A. Finger and Palm Prints. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, both finger prints and palm prints of the sex offender in a digitized format.

#### SECTION 4.08 INTERNET IDENTIFIERS

- A. Internet Names. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity:
1. Any and all email addresses used by the sex offender,
  2. Any and all Instant Message addresses and identifiers,
  3. Any and all other designations or monikers used for self-identification in internet communications or postings, and
  4. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

#### SECTION 4.09 NAME

- A. Name. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:
1. The sex offender's full primary given name,
  2. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
  3. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

#### SECTION 4.10 PHONE NUMBERS

- A. Phone Numbers. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's telephone numbers:
1. Any and all land line telephone numbers, and
  2. Any and all cellular telephone numbers.

#### SECTION 4.11 PICTURE

- A. Photograph. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.
- B. Update Requirements. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected :
1. Every 90 days for Tier 3 sex offenders,
  2. Every 180 days for Tier 2 sex offenders, and
  3. Every year for Tier 1 sex offenders.

#### SECTION 4.12 PHYSICAL DESCRIPTION

- A. Physical Description. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:
1. A physical description,

2. A general description of the sex offender's physical appearance or characteristics, and
3. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

#### SECTION 4.13 PROFESSIONAL LICENSING INFORMATION

- A. Professional Licenses. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

#### SECTION 4.14 RESIDENCE ADDRESS

- A. Address. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:
1. The address of each residence at which the sex offender resides or will reside, and
  2. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

#### SECTION 4.15 SCHOOL

- A. School Location. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:
1. The address of each school where the sex offender is or will be a student, and
  2. The name of each school the sex offender is or will be a student.

#### SECTION 4.16 SOCIAL SECURITY NUMBER

- A. Social Security. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, the following information:
1. A valid social security number for the sex offender, and
  2. Any social security number the sex offender has used in the past, valid or otherwise.

#### SECTION 4.17 TEMPORARY LODGING

- A. Lodging Information. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for 7 days or more:
1. Identifying information of the temporary lodging locations including addresses and names, and
  2. The dates the sex offender will be staying at each temporary lodging location.
  3. Travel Abroad. In the event the sex offender will be traveling outside of the United States for more than 7 days, the **[responsible agency name]** or designee shall immediately provide this information to INTERPOL.

**NOTE: Section 4.17(A)(3) is not required by SORNA, but was a suggestion made by the SMART Office. If your tribe determines that such a provision is advisable, leadership may want to include this provision in a policies and procedures document rather than a tribal code/ordinance.**



#### SECTION 4.18 OFFENSE INFORMATION

- A. Offense Information. The **[responsible agency name]** or designee shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

#### SECTION 4.19 VEHICLE INFORMATION

- A. Detailed Information. The **[responsible agency name]** or designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:
1. License plate numbers,
  2. Registration numbers or identifiers,
  3. General description of the vehicle to include color, make, model, and year, and
  4. Any permanent or frequent location where any covered vehicle is kept.

#### SECTION 4.20 FREQUENCY, DURATION AND REDUCTION

- A. Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the **[responsible agency name]** for purposes of verification and keeping their registration current in accordance with the following time frames:
1. For “Tier 1” offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
  2. For “Tier 2” offenders, once every 180 days for 25 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
  3. For “Tier 3” offenders, once every 90 days for the rest of their lives.

**NOTE: Sections 4.20 (B) and (C), providing for the reduction of two specific categories of registration (defined below), are discretionary for the registration jurisdiction. Therefore, a registration jurisdiction, to include a tribe, can comply with the minimum requirements of SORNA without providing for the possibility of a reduction of an applicable registration period.**

- B. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:
1. A Tier 1 offender may have his or her period of registration reduced to 10 years if he or she has maintained a clean record for 10 consecutive years;
  2. A Tier 3 offender may have his or her period of registration reduced to 25 years if he or she was adjudicated delinquent of an offense as a juvenile that required Tier 3 registration and he or she has maintained a clean record for 25 consecutive years.
- C. Clean Record. For purposes of Chapter 4.20(B) a person has a clean record if:
1. He or she has not been convicted of any offense, for which imprisonment for more than 1 year may be imposed, (**NOTE: Tribes may want to change this provision to ensure felonious tribal offenses do not count toward a clean record.**)
  2. He or she has not been convicted of any sex offense,

3. He or she has successfully completed, without revocation, any period of supervised release, probation, or parole, and
4. He or she has successfully completed an appropriate sex offender treatment program certified by the tribe, another jurisdiction, or by the Attorney General of the United States.

#### SECTION 4.21 REQUIREMENTS FOR IN PERSON APPEARANCES

- A. Photographs. At each in person verification, the sex offender shall permit the **[responsible agency name]** to take a photograph of the offender.
- B. Review of Information. At each in person verification the sex offender shall review existing information for accuracy.
- C. Notification. If any new information or change in information is obtained at an in person verification, the **[responsible agency name]** shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.

### CHAPTER 5 REGISTRATION

#### SECTION 5.01 WHERE REGISTRATION IS REQUIRED

- A. Jurisdiction of Conviction. A sex offender must initially register with the **[responsible agency name]** of **[tribe's name]** if the sex offender was convicted by the Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.
- B. Jurisdiction of Incarceration. A sex offender must register with the **[responsible agency name]** of **[tribe's name]** if the sex offender is incarcerated by the tribe while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.
- C. Jurisdiction of Residence. A sex offender must register with the **[responsible agency name]** of **[tribe's name]** if the sex offender resides within **lands subject to the jurisdiction of the tribe.** **[NOTE: The preceding bolded phrase will not be appropriate for every tribe. Your tribe's code/ordinance should include language that will address the tribe's particular situation.]**
- D. Jurisdiction of Employment. A sex offender must register with the **[responsible agency name]** of **[tribe's name]** if he or she is employed by the tribe in any capacity or otherwise is employed within **lands subject to the jurisdiction of the tribe.** **[NOTE: The preceding bolded phrase may not be appropriate for every tribe. Your tribe's code/ordinance should include language that will address the tribe's particular situation.]**
- E. Jurisdiction of School Attendance. A sex offender must register with the **[responsible agency name]** of **[tribe's name]** if the sex offender is a student in any capacity within **lands subject to the jurisdiction of the tribe.** **[NOTE: The preceding bolded phrase will not be appropriate for every tribe. Your tribe's code/ordinance should include language that will address the tribe's particular situation.]**

#### SECTION 5.02 TIMING OF REGISTRATION

- A. Timing. A sex offender required to register with the tribe under this code shall do so in the following timeframe:
  1. If convicted by **[tribe name]** for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
  2. If convicted by **[tribe name]** but not incarcerated, within 3 business days of sentencing for the registration offense, and

3. Within 3 business days of establishing a residence, commencing employment, or becoming a student on **lands subject to the jurisdiction of the tribe** [NOTE: **The preceding bolded phrase will not be appropriate for every tribe. Your tribe's code/ordinance should include language that will address the tribe's particular situation**], a sex offender must appear in person to register with [**responsible agency name**].
- B. Duties of [**responsible agency name**]. The [**responsible agency name**] shall have policies and procedures in place to ensure the following:
1. That any sex offender incarcerated or sentenced by the tribe for a covered sex offense completes their initial registration with the tribe,
  2. That the sex offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement,
  3. That the sex offender is registered, and
  4. That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

#### SECTION 5.03 RETROACTIVE REGISTRATION

- A. Retroactive Registration. The [**responsible agency name**] shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this code:
1. Sex offenders incarcerated or under the supervision of the tribe, whether for a covered sex offense or other crime,
  2. Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the tribe's laws, and
  3. Sex offenders reentering the justice system due to conviction for any crime.
- B. Timing of Recapture. The [**responsible agency name**] shall ensure recapture of the sex offenders mentioned in Section 5.03(A) within the following timeframe to be calculated from the date of passage of this code:
1. For Tier 1 sex offenders, 1 year,
  2. For Tier 2 sex offenders, 180 days, and
  3. For Tier 3 sex offenders, 90 days.

#### SECTION 5.04 KEEPING REGISTRATION CURRENT

- A. Jurisdiction of Residency. All sex offenders required to register in this jurisdiction shall immediately appear in person [**at responsible agency name**] to update any changes to their name, residence (including termination of residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall immediately inform [**responsible agency name**] via [**agency's preferred mode of communication**] of any changes to their temporary lodging information, vehicle information, internet identifiers, or telephone numbers. In the event of a change in temporary lodging, the sex offender and [**responsible agency name**] shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.
- B. Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within **lands subject to the jurisdiction of the tribe** [NOTE: **The preceding bolded phrase will not**

**be appropriate for every tribe. Your tribe's code/ordinance should include language that will address the tribe's particular situation]** regardless of location that change their school, or otherwise terminate their schooling, shall immediately appear in person at the **[responsible agency name]** to update that information. The **[responsible agency name]** shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

- C. Jurisdiction of Employment. Any sex offender who is employed by the tribe in any capacity or otherwise is employed within **lands subject to the jurisdiction of the tribe** **[NOTE: The preceding bolded phrase will not be appropriate for every tribe. Your tribe's code/ordinance should include language that will address the tribe's particular situation]** regardless of location that change their employment, or otherwise terminate their employment, shall immediately appear in person at the **[responsible agency name]** to update that information. The **[responsible agency name]** shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

**NOTE: The foregoing list establishes minimum compliance with SORNA regarding registration currency. Your tribe may want to add additional items to the list in Section 5.04 (A).**

- D. Duties of **[responsible agency name]**. With regard to changes in a sex offender's registration information, the **[responsible agency name]** or designee shall immediately notify:
1. All jurisdictions where a sex offender intends to reside, work, or attend school,
  2. Any jurisdiction where the sex offender is either registered or required to register, and
  3. Specifically with respect to information relating to a sex offender's intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service. The tribal police shall also ensure this information is immediately updated on NSOR.

#### SECTION 5.05 FAILURE TO APPEAR FOR REGISTRATION AND ABSCONDING

- A. Failure to Appear. In the event a sex offender fails to register with the tribe as required by this code, the **[responsible agency name]** or designee shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the tribe that the sex offender failed to appear for registration.

**NOTE: Your Tribe may want to consider putting Section 5.05 (B) and (C) into a policies and procedures document rather than the tribal code/ordinance.**

- B. Absconded Sex Offenders. If the **[responsible agency name]** or designee receives information that a sex offender has absconded the **[responsible agency name]** shall make an effort to determine if the sex offender has actually absconded.
1. In the event no determination can be made, the **[responsible agency name]** or designee shall ensure the tribal police and any other appropriate law enforcement agency is notified.
  2. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.
  3. If an absconded sex offender cannot be located then the tribal police shall take the following steps:
    - a. Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located,

- b. Notify the U.S. Marshals Service,
  - c. Seek a warrant for the sex offender's arrest. The U.S. Marshals Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest,
  - d. Update the NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located, and
  - e. Enter the sex offender into the National Crime Information Center Wanted Person File.
- C. Failure to Register. In the event a sex offender who is required to register due to their employment or school attendance status fails to do so or otherwise violates a registration requirement of this code, the **[responsible agency name]** shall take all appropriate follow-up measures including those outlined in Section 5.05(B). The **[responsible agency name]** shall first make an effort to determine if the sex offender is actually employed or attending school in lands subject to the tribe's jurisdiction.

## CHAPTER 6 PUBLIC SEX OFFENDER REGISTRY WEBSITE

### SECTION 6.01 WEBSITE

- A. Website. The **[responsible agency name]** shall use and maintain a public sex offender registry website.

**NOTE: The SMART Office has developed the Tribe and Territory Sex Offender Registry System (TTSORS) which qualifies as a public sex offender registry website under this code. While tribes using this free software provided by the SMART Office will have a public sex offender registry website that complies with SORNA, there is no requirement that a tribe use the TTSORS.**

- B. Links. The registry website shall include links to sex offender safety and education resources.
- C. Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
- D. Warnings. The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.
- E. Search Capabilities. The registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and, (3) zip code and/or geographic radius.
- F. Dru Sjodin National Sex Offender Public Website. The tribe shall include in the design of its website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

### SECTION 6.02 REQUIRED AND PROHIBITED INFORMATION

- A. Required Information. The following information shall be made available to the public on the sex offender registry website:
- 1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
  - 2. All sex offenses for which the sex offender has been convicted,

3. The sex offense(s) for which the offender is currently registered,
  4. The address of the sex offender's employer(s),
  5. The name of the sex offender including all aliases,
  6. A current photograph of the sex offender,
  7. A physical description of the sex offender,
  8. The residential address and, if relevant, a description of a habitual residence of the sex offender,
  9. All addresses of schools attended by the sex offender, and
  10. The sex offender's vehicle license plate number along with a description of the vehicle.
- B. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:
1. Any arrest that did not result in conviction,
  2. The sex offender's social security number,
  3. Any travel and immigration documents,
  4. The identity of the victim, and
  5. Internet identifiers (as defined in 42 U.S.C. §16911).
- C. Witness Protection. For sex offenders who are under a witness protection program, the tribal police may honor the request of the United States Marshals Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

#### SECTION 6.03 COMMUNITY NOTIFICATION

- A. Law Enforcement Notification. Whenever a sex offender registers or updates his or her information with the tribe, the **[responsible agency name]** shall:
1. Immediately notify the FBI or other federal agency as designated by the Attorney General in order that the information may be updated on NSOR or other relevant databases,
  2. Immediately notify any agency, department, or program within the tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation.
  3. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment.
  4. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a) when a sex offender registers or updates registration.

**NOTE: If the tribe decides to fully utilize the TTSORS, the free software provided by the SMART Office, the community notification requirement detailed below will be met. If not then the tribe must create procedures to conform with the following process;**

B. Community Notification. The **[responsible agency name]** shall ensure there is an automated community notification process in place that ensures the following:

1. Upon a sex offender's registration or update of information with the tribe, the tribe's public sex offender registry website is immediately updated,
2. The tribe's public sex offender registry has a function that enables the general public to request an e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for the new information.

**NOTE: In this section, your tribe should include any provisions required to provide notification to tribal members.**

## **CHAPTER 7 IMMUNITY**

**NOTE: Chapter 7 is not required by SORNA, but may be provisions that your tribe wants to consider including in any Code/Ordinance developed.**

- A. No waiver of immunity. Nothing under this chapter shall be construed as a waiver of sovereign immunity for the **[insert your tribe's name here]**, its departments, agencies, employees, or agents.
- B Good faith. Any person acting under good faith of this Title shall be immune from any civil liability arising out of such actions.

## **CHAPTER 8 CRIMES AND CIVIL SANCTIONS**

**NOTE: The provisions contained in this chapter are not required by SORNA, but are provisions that your tribe may want to consider including in its sex offender registry code. If criminal punishment is not outlined in the sex offender registration Code/Ordinance, it should be provided for in a tribe's criminal code.**

- A. Criminal penalty. Each violation of a provision of this code by a sex offender who is an Indian shall be considered a crime and subject to a period of incarceration of **[insert maximum possible term of incarceration here]** and a fine of **[insert maximum possible fine amount here.]**
- B. Civil Penalty. Each violation of a provision of this code by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt.
- C. Customs and traditions and banishment/exclusion.
- D. Hindrance of sex offender registration
  1. A person is guilty of an offense if they:
    - a. Knowingly harbors or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this Title;
    - b. Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this Title; or
    - c. Provides information to law enforcement agency regarding a sex offender which the person knows to be false.