

Chapter 6.5

SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION

- Sec. 6.5-1. Policy.
- Sec. 6.5-2. Creation of registries.
- Sec. 6.5-3. Definitions.
- Sec. 6.5-4. Sex offender registration and covered offenses.
- Sec. 6.5-5. Tiered offenses.
- Sec. 6.5-6. Required information.
- Sec. 6.5-7. Frequency, duration and reduction.
- Sec. 6.5-8. Registration.
- Sec. 6.5-9. Failure to appear for registration and absconding.
- Sec. 6.5-10. Residency restrictions.
- Sec. 6.5-11. Community notification.
- Sec. 6.5-12. Law enforcement notification.
- Sec. 6.5-13. Immunities.
- Sec. 6.5-14. Failure to register.

Sec. 6.5-1. Policy.

Sex offenders present a clear and present danger to the mental, emotional and physical well-being of the members and residents of the Community. The policy of the Community Council is that such behavior by any person shall not be tolerated or excused. Nonmembers shall be on notice that any violations shall be reported to the proper state or federal authorities for immediate action. Therefore the Community has adopted this sex offender registration ordinance in order to regulate such activities in conformity with the Adam Walsh Child Protection and Safety Act of 2006, but this chapter is not intended to be additional punishment.

(Ord. No. SRO-405-2012, § 6-149, 7-18-2012)

Sec. 6.5-2. Creation of registries.

(a) *Sex offender registry established.* There is hereby established a sex offender registry, which the Community police department shall maintain and operate pursuant to the provisions of this Community Code of Ordinances.

(b) *Public website.* There is hereby established a public sex offender registry website, as authorized and implemented by SR-2941-2011, which the Community police department shall maintain and operate pursuant to the provisions of this Community Code of Ordinances.

(Ord. No. SRO-405-2012, § 6-150, 7-18-2012)

Sec. 6.5-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Absconder means a sex offender who has left a registration jurisdiction without updating his or her registration information as required by law and cannot be located.

Convicted.

- (1) The term "convicted," as applied to an adult sex offender, means the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.

- (2) The term "convicted," as applied to a juvenile offender, means the juvenile offender is:

- a. Prosecuted and found guilty as an adult for a sex offense;
- b. 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 18 USC 2241(a) or (b)), or was an attempt or conspiracy to commit such an offense; or
- c. Adjudicated delinquent as a juvenile for a violation of a sex offense as described in this Community Code of Ordinances.

Dru Sjodin National Sex Offender Public Website (NSOPW) means the public website maintained by the Attorney General of the United States pursuant to 42 USC 16920.

Employee includes, but is not limited to, an individual who is employed by the Community, self-employed or works for any other entity, regardless of compensation. Volunteers of a Community department, agency or organization are included within the definition of employee for registration purposes.

Foreign conviction means a conviction obtained outside of the United States, notwithstanding chapter 7 of this Community Code of Ordinances.

Immediate and immediately mean within three business days.

Imprisonment means 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 Community jail. Persons under "house arrest" following conviction of a covered sex offense are required to

register pursuant to the provisions of this Community Code of Ordinances during their period of "house arrest."

Jurisdiction 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 Nation.

Juvenile means an individual who has not attained the age of 18 years.

Juvenile offender means a child who has been adjudicated to have committed an act, which, if committed by an adult, would be a criminal offense.

Juvenile offense means an act by a child, which, if committed by an adult, would be a criminal offense.

National Sex Offender Registry (NSOR) means the national database maintained by the Attorney General of the United States and the Federal Bureau of Investigations (FBI).

Resides means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps.

Sex offender means a person convicted of a sex offense.

Sex offense includes those offenses contained in 42 USC 16911(5) and those offenses of a sexual nature under Community law, or the law of any other jurisdiction. An offense involving consensual sexual conduct is not a sex offense for the purposes of this chapter 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 four years older than the victim.

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.

Sexual contact means 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 any person.

Sex offender registry means the registry of sex offenders, and a notification program, maintained by the Community police department.

SMART office means 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 USC 16945.

SORNA means the Sex Offender Registration and Notification Act (title I of the Adam Walsh Child Protection and Safety Act of 2006 PL 109-248), 42 USC 16901 et seq., as amended.

Student means 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 and includes interns, externs, or participants in apprenticeship programs who are involved in educational or vocational activities in the Community.

Tier 1 sex offender or *sex offender designated as tier 1* means a person that has been convicted of a tier 1 sex offense as defined in section 6.5-5(a).

Tier 2 sex offender or sex offender designated as tier 2 means a person that has been convicted of a tier 2 sex offense as defined in section 6.5-5(b).

Tier 3 sex offender or sex offender designated as tier 3 means a person that has been convicted of a tier 3 sex offense as defined in section 6.5-5(c).
(Ord. No. SRO-405-2012, § 6-151, 7-18-2012)

Sec. 6.5-4. Sex offender registration and covered offenses.

(a) *Mandatory registration.* Any individual who resides within the exterior boundaries of the reservation or otherwise resides on property owned by the Community in fee or trust regardless of location; is employed within the exterior boundaries of the reservation or on property owned by the Community in fee or trust regardless of location; or who attends school within the exterior boundaries of the Community or on property owned by the Community in fee or trust regardless of location, that has been convicted of, admitted to under oath, or pleaded guilty or no contest to a violation or attempted violation of any of the registrable offenses provided in subsection (b) of this section or who has been convicted of, admitted to under oath, or pleaded guilty or no contest to an offense in any jurisdiction which if committed within the Community or within the state would be a violation or attempted violation of the registrable sexual offenses provided in subsection (b) of this section, must register with the Community police department. For purposes of this chapter, an individual who is required to register for any registrable sexual offense will be known as a "registrable sex offender."

(b) *Registrable sexual offenses.* Individuals 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 Community Code of Ordinances:

(1) *Offenses pursuant to the previously enacted Code of Ordinances.* Any violation of the

following sections of the previously enacted Community Code of Ordinances:

- a. Attempted rape pursuant to section 6-61.
- b. Rape pursuant to section 6-61.1.
- c. Carnal knowledge of person under 18 years of age pursuant to section 6-66.
- d. Unnatural sex act pursuant to 6-67.
- e. Incest pursuant to section 6-68.
- f. Oral copulation with a minor, or aiding and abetting another's oral copulation with a minor pursuant to section 6-87.
- g. Penetration of genital or anal opening of a minor by foreign object pursuant to section 6-88.
- h. Enticement for purposes of prostitution or procuring or procuring for illicit intercourse by false pretenses pursuant to section 6-90.
- i. Sodomy with a child or aiding and abetting sodomy with a child pursuant to section 6-90.
- j. Unlawful sexual intercourse pursuant to section 6-90.1.
- k. Lewd or lascivious acts or use of force or violence pursuant to section 6-90.2.
- l. Any conviction under the Code in which the underlying facts admitted or found on the record involve any sexual exploitation of a minor, including, but not limited to, possessing, producing, or obtaining child pornography.

(2) *Offenses pursuant to the current Code of Ordinances.* Any violation of the following sections of the Code of Ordinances:

- a. Prostitution pursuant to section 6-62.
- b. Indecent exposure pursuant to section 6-63.
- c. Abusive sexual contact pursuant to section 6-64.

- d. Sexual assault or aggravated sexual assault pursuant to section 6-65.
 - e. Incest pursuant to section 6-68.
 - f. Sexual contact with a child pursuant to section 6-87.
 - g. Sexual abuse of a child pursuant to section 6-88.
 - h. Continuous sexual abuse of a child pursuant to section 6-89.
 - i. Child prostitution pursuant to section 6-90.
 - j. Any conviction under the Code in which the underlying facts admitted or found on the record involve any sexual exploitation of a minor, including, but not limited to, possessing, producing, or obtaining child pornography; or child abuse pursuant to section 6-82 where the abuse as defined by section 6-82(c) includes sexual abuse pursuant to sections 6-87, 6-88, 6-89 or 6-90.
- (3) *Federal offenses.* A conviction for any of the following, and any other offense hereafter included in the definition of the term "sex offense" at 42 USC 16911(5):
- a. 18 USC 1591 (sex trafficking of children);
 - b. 18 USC 1801 (video voyeurism of a minor);
 - c. 18 USC 2241 (aggravated sexual abuse);
 - d. 18 USC 2242 (sexual abuse);
 - e. 18 USC 2243 (sexual abuse of a minor or ward);
 - f. 18 USC 2244 (abusive sexual contact);
 - g. 18 USC 2245 (offenses resulting in death);
 - h. 18 USC 2251 (sexual exploitation of children);
 - i. 18 USC 2251(A) (selling or buying of children);
 - j. 18 USC 2252 (material involving the sexual exploitation of a minor);
 - k. 18 USC 2252(A) (material containing child pornography);
 - l. 18 USC 2252(B) (misleading domain names on the internet);
 - m. 18 USC 2252(C) (misleading words or digital images on the internet);
 - n. 18 USC 2260 (production of sexually explicit depictions of a minor for import into the United States);
 - o. 18 USC 2421 (transportation of a minor for illegal sexual activity);
 - p. 18 USC 2422 (coercion and enticement of a minor for illegal sexual activity);
 - q. 18 USC 2423 (Mann Act);
 - r. 18 USC 2424 (failure to file factual statement about an alien individual);
 - s. 18 USC 2425 (transmitting information about a minor to further criminal sexual conduct).
- (4) *State or tribal offenses.* Any violation requiring registration under any state statute or pursuant to an order of conviction from a state or tribal criminal proceeding.
- (5) *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.
- (6) *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 USC 951 note).

- (7) *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 USC 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.

(Ord. No. SRO-405-2012, § 6-152, 7-18-2012; Ord. No. SRO-466-2015, 6-24-2015)

Sec. 6.5-5. Tiered offenses.

- (a) *Tier 1 offenses.*
- (1) *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.
- (2) *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 6.5-4 that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- (3) *Misdemeanors.* Any sex offense covered by this act where punishment was eligible

to no more than one year in jail shall be considered a tier 1 sex offense, unless otherwise specified.

- (4) *Certain federal offenses.* Conviction for any of the following federal offenses shall be considered a conviction for a tier 1 offense:

- a. 18 USC 1801 (video voyeurism of a minor);
- b. 18 USC 2252 (receipt or possession of child pornography);
- c. 18 USC 2252(A) (receipt or possession of child pornography);
- d. 18 USC 2252(B) (misleading domain names on the internet);
- e. 18 USC 2252(C) (misleading words or digital images on the internet);
- f. 18 USC 2422(a) (coercion to engage in prostitution);
- g. 18 USC 2423(b) (travel with the intent to engage in illicit conduct);
- h. 18 USC 2423(c) (engaging in illicit conduct in foreign places);
- i. 18 USC 2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain, if committed by an adult);
- j. 18 USC 2424 (failure to file factual statement about an alien individual); or
- k. 18 USC 2425 (transmitting information about a minor to further criminal sexual conduct).

- (5) *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 USC 951 note) that is similar to those offenses outlined in section 6.5-5(a) shall be considered a tier 1 offense.

- (b) *Tier 2 offenses.*

- (1) *Recidivism and felonies.* 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.

- (2) *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, notwithstanding subsection (a)(3) of this section, that involves:

- a. The use of minors in prostitution, including solicitations;
- b. Enticing a minor to engage in criminal sexual activity;
- c. 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;
- d. The use of a minor in a sexual performance;
- e. The production or distribution of child pornography; or
- f. A nonforcible sexual act with a minor 16 or 17 years old.

- (3) *Certain federal offenses.* Conviction for any of the following federal offenses shall be considered a conviction for a tier 2 offense:

- a. 18 USC 1591 (sex trafficking by force, fraud, or coercion);
- b. 18 USC 2244 (abusive sexual contact, where the victim is 13 years of age or older);
- c. 18 USC 2251 (sexual exploitation of children);
- d. 18 USC 2251(A) (selling or buying of children);
- e. 18 USC 2252 (material involving the sexual exploitation of a minor);
- f. 18 USC 2252(A) (production or distribution of material containing child pornography);
- g. 18 USC 2260 (production of sexually explicit depictions of a minor for import into the United States);

- h. 18 USC 2421 (transportation of a minor for illegal sexual activity);
 - i. 18 USC 2422(b) (coercing a minor to engage in prostitution);
 - j. 18 USC 2423(a) (transporting a minor to engage in illicit conduct);
 - k. 18 USC 2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain, if committed by a juvenile offender).
- (4) *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 USC 951 note) that is similar to those offenses outlined in section 6.5-5(b)(1)—(3) shall be considered a tier 2 offense.
- (c) *Tier 3 offenses.*
- (1) *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.
- (2) *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, notwithstanding subsection (a)(3) of this section, that involves:
- a. Nonparental kidnapping of a minor;
 - b. A sexual act with another by force or threat;
 - c. 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
 - d. Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or con-

tact with the intimate parts of the body, either directly or through the clothing.

- (3) *Certain federal offenses.* Conviction for any of the following federal offenses shall be considered conviction for a tier 3 offense:
- a. 18 USC 2241(a), (b) and (c) (aggravated sexual abuse);
 - b. 18 USC 2242 (sexual abuse); or
 - c. Where the victim is 12 years of age or younger, 18 USC 2244 (abusive sexual contact).
 - d. 18 USC 2243 (sexual abuse of a minor or ward).
- (4) *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 USC 951 note) that is similar to those offenses outlined in section 6.5-5(c)(1)—(3) shall be considered a tier 3 offense.
- (Ord. No. SRO-405-2012, § 6-153, 7-18-2012)

Sec. 6.5-6. Required information.

- (a) *General requirements.*
- (1) *Duties.* A sex offender who is required to register with the Community pursuant to section 6.5-4 shall provide all of the information detailed in this section to the Community police department and the Community police department shall obtain all of the information detailed in this section pertaining to sex offenders who are required to register with the Community in accordance with this Community Code of Ordinances and shall implement any relevant policies and procedures in furtherance thereof.
- (2) *Digitization.* All information obtained under this Community Code of Ordinances shall be, at a minimum, maintained by the Community police department in a digitized format.
- (3) *Electronic database.* A sex offender registry shall be maintained in an electronic

database by the Community police department and shall be in a form capable of electronic transmission.

(b) *Criminal history.* The Community police department 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.

(c) *Date of birth.* The Community police department 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.

(d) *DNA sample.*

- (1) *DNA.* If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Community police department or designee a sample of his or her DNA.
- (2) *CODIS.* Any DNA sample obtained from a sex offender shall be submitted to the FBI criminal lab for analysis and entry of the resulting DNA profile in to CODIS.

(e) *Driver's licenses, identification cards, passports and immigration documents.*

- (1) *Driver's license.* The Community police department 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.
- (2) *Identification cards.* The Community police department 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. All sex offenders required to register pursuant to section 6.5-4 who are enrolled members of the Community shall be required to obtain and maintain a valid tribal identification card for the duration of their period of registration.

(3) *Passports.* The Community police department or designee shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.

(4) *Immigration documents.* The Community police department or designee shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

(f) *Employment information.* The Community police department 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.

(g) *Fingerprints and palm prints.* The Community police department or designee shall obtain, and a covered sex offender shall provide, both fingerprints and palm prints of the sex offender.

(h) *Internet identifiers.* The Community police department 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 URL addresses or websites registered to or by the sex offender;
- (4) Any and all other designations or monikers used for self-identification in internet communications or postings; and
- (5) Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

(i) *Name.* The Community police department 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.

(j) *Phone numbers.* The Community police department 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;
- (2) Any and all cellular telephone numbers; and
- (3) Any and all voice over internet protocol (VoIP) numbers or URLs.

(k) *Picture; update requirements.* The Community police department or designee shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender. 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.

(l) *Physical description.* The Community police department 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;
- (3) Any identifying marks, such as, but not limited to, scars, moles, birthmarks, piercings or tattoos; and
- (4) A photograph of any identifying marks, such as, but not limited to scars, moles, birthmarks, piercings or tattoos shall be taken upon registration and in-person appearances and verifications.

(m) *Professional licensing information.* The Community police department 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.

(n) *Residence address.* The Community police department 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 address, 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.

(o) *School.* The Community police department 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.

(p) *Social security number.* The SRPMIC police department 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.

(q) *Temporary lodging.* Lodging information. the Community police department or designee shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his or her residence for seven 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.

(r) *Travel abroad.* In the event the sex offender will be traveling outside of the United States for more than seven days, the Community police department or designee shall immediately provide this information to INTERPOL. The sex offender shall provide notice to the Community police department at least 21 days prior to travel outside of the United States. The Community police department must notify the U.S. Marshals Service and immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information. Update also must be made to NCIC/NSOR.

(s) *Offense information.* The Community police department or designee shall obtain the text of each provision of law defining the criminal offense for which the sex offender is registered.

(t) *Vehicle information.* The Community police department 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) A copy of the vehicle registration;

- (2) License plate numbers;
 - (3) Registration numbers or identifiers;
 - (4) General description of the vehicle to include color, make, model, and year; and
 - (5) Any permanent or frequent location where any covered vehicle is kept.
- (Ord. No. SRO-405-2012, § 6-154, 7-18-2012)

Sec. 6.5-7. Frequency, duration and reduction.

(a) *Registration.* A sex offender who is required to register shall, at a minimum, appear in person at the Community police department for purposes of verification and keeping their registration current in accordance with the following timeframes:

- (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.

(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 ten years if he or she has maintained a clean record for ten 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 subsection (b) of this section, a person has a clean record if:

- (1) He or she has not been convicted of any offense, for which imprisonment for more than one year may be imposed;
- (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 Community, another jurisdiction, or by the Attorney General of the United States.

(d) *Requirements for in person appearances.*

- (1) *Photographs.* At each in person verification, the sex offender shall permit the Community police department to take a photograph of the offender.
- (2) *Review of information.* At each in person verification, the sex offender shall review existing information for accuracy, and provide corrections and/or updates.
- (3) *Notification.* If any new information or change in information is obtained at an in person verification, the Community police department shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.
- (4) *Capacity to register.* No sex offender shall be allowed to register or update information required by this chapter if the sex offender is mentally impaired due to drug or alcohol use or medical condition. Any impairment or incapacity to register will be ascertained by the Community police department or its designee. Such impairment will not exempt the sex offender from registration requirements pursuant to this chapter.

(Ord. No. SRO-405-2012, § 6-155, 7-18-2012)

Sec. 6.5-8. Registration.

(a) *Required registration locations.*

- (1) *Jurisdiction of conviction.* A sex offender must initially register with the Community police department if the sex offender was convicted by the Community court of a covered sex offense regardless of the sex offender's actual or intended residency.
- (2) *Jurisdiction of incarceration.* A sex offender must register with the Community police department if the sex offender is incarcerated by the Community department of corrections while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.
- (3) *Jurisdiction of residence.* A sex offender must register with the Community police department if the sex offender resides within lands subject to the jurisdiction of the Community.
- (4) *Jurisdiction of employment.* A sex offender must register with the Community police department if he or she is employed by the Community in any capacity or otherwise is employed within lands subject to the jurisdiction of the Community.
- (5) *Jurisdiction of school attendance.* A sex offender must register with the Community police department if the sex offender is a student in any capacity within lands subject to the jurisdiction of the Community.

(b) *Timing of registration.* A sex offender must appear in person to register with the Community police department. Any person required to register under this section must do so at the earliest of the following:

- (1) Within 24 hours of release from custody in any jail, prison, or rehabilitative facility.
- (2) Upon the sentencing date, if the offender is not immediately taken into custody.
- (3) Within 24 hours of establishing or re-establishing a residence or temporary lodging within the Community.

- (4) Immediately if the offender is currently residing or temporarily domiciled within the Community upon the enactment of this chapter.
- (5) If convicted by Community for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration.
- (6) Within three business days of commencing employment, or becoming a student on lands subject to the jurisdiction of the Community.

(c) *Duties of Community police department.* The Community police department shall have policies and procedures in place to ensure the following:

- (1) Any sex offender incarcerated or sentenced by the Community for a covered sex offense completes their initial registration with the Community;
- (2) 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) The sex offender is registered; and
- (4) Upon entry of the sex offender's information into 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.

(d) *Retroactive registration.* The Community police department 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 Community Code of Ordinances:

- (1) Sex offenders incarcerated or under the supervision of the Community, whether for a covered sex offense or other crime;
- (2) Sex offenders already registered or subject to a preexisting sex offender registration requirement under this Community Code of Ordinances; and

- (3) Sex offenders reentering the justice system due to conviction for any crime.

(e) *Timing of recapture.* The Community police department shall ensure recapture of the sex offenders mentioned in this section within the following timeframe to be calculated from the date of passage of this Community Code of Ordinances:

- (1) For tier 1 sex offenders, one year;
- (2) For tier 2 sex offenders, 180 days; and
- (3) For tier 3 sex offenders, 90 days.

(f) *Keeping registration current.*

- (1) *Jurisdiction of residency.* All sex offenders required to register in this jurisdiction shall immediately appear in person to the Community police department 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 the Community police department 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 the Community police department shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.
- (2) *Jurisdiction of school attendance.* Any sex offender who is a student in any capacity within lands subject to the jurisdiction of the Community regardless of location that change their school, or otherwise terminate their schooling, shall immediately appear in person at the Community police department to update that information. The Community police department 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.
- (3) *Jurisdiction of employment.* Any sex offender, who is employed by the Commu-

nity in any capacity or otherwise is employed within lands subject to the jurisdiction of the Community regardless of location that change their employment, or otherwise terminate their employment, shall immediately appear in person at the Community police department to update that information. The Community police department 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.

(4) *Duties of Community police department.* With regard to changes in a sex offender's registration information, the Community police department or designee shall immediately notify:

- a. All jurisdictions where a sex offender intends to reside, work, or attend school;
- b. Any jurisdiction where the sex offender is either registered or required to register; and
- c. 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, the U.S. Marshals Service, and INTERPOL, if necessary. The Community police shall also ensure this information is updated on NSOR.

(Ord. No. SRO-405-2012, § 6-156, 7-18-2012)

Sec. 6.5-9. Failure to appear for registration and absconding.

(a) *Failure to appear.* In the event a sex offender fails to register with the Community as required by this Community Code of Ordinances, the Community police department or designee shall immediately inform the jurisdiction that provided notification that the sex offender was to

commence residency, employment, or school attendance within the Community that the sex offender failed to appear for registration.

(b) *Absconded sex offenders.* If the Community police department or designee receives information that a sex offender has absconded the Community police department shall make an effort to determine if the sex offender has actually absconded.

- (1) The Community police department or designee shall ensure that the Community police and any other appropriate law enforcement agency is notified that a determination of absconding cannot be made, and the reasoning for such determination.
- (2) If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, the notifying jurisdiction shall be informed that the sex offender has failed to appear and register with the Community police department.
- (3) If an absconded sex offender cannot be located, then the Community 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 Community Code of Ordinances, the

Community police department shall take all appropriate follow-up measures including those outlined in subsection (b) of this section. The Community police department 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.
(Ord. No. SRO-405-2012, § 6-157, 7-18-2012)

Sec. 6.5-10. Residency restrictions.

(a) A registered sex offender is prohibited from residing or working within 1,000 feet of, or loitering within 500 feet of:

- (1) The residence(s) of the victim(s) of the crime(s) for which he or she is registered; or
- (2) Any school, preschool or day care center, playground, youth center, public swimming pool, marked or routinely used bus stop, temporary or permanent amusement center or event, or any facility where children receive services, go to for sports, games or other entertainment, or otherwise gather together. However, Tier 1 and Tier 2 registered sex offenders are exempt from the residency restriction described in this subsection (a)(2) if:
 - a. The sex offender is in compliance with all provisions of this chapter 6.5;
 - b. The sex offender established a permanent residence at a location within the zone covered by subsection (a)(2) before March 16, 2005, or before a facility described in subsection (a)(2) was built or established; and
 - c. The sex offender has maintained a clean record as defined in section 6.5-7(c) for ten consecutive years.
 - d. The burden of establishing qualifications for an exemption lies with the sex offender. To obtain an exemption under this subsection, a sex offender must file a petition with the Community court and a judge of the Community court must find,

based on the submission of clear and convincing evidence, that the sex offender is eligible for an exemption. The tribal prosecutor's office must be given notice of any petition filed by a sex offender under this subsection, must have a meaningful opportunity to respond to the petition, and the Community court must consider the tribal prosecutor's position before granting an exemption.

(b) A registered sex offender is prohibited from residing in a household with children under the age of 18 years.

(c) For purposes of this section, the term "loiter" means standing, sitting idly whether or not the person is in a vehicle, or remaining in or around any school, preschool, or day care center, playground, youth center, public swimming pool, marked bus stop, temporary or permanent amusement center or event, or any facility where children receive services, go to for sports, games or other entertainment, or otherwise gather together while not having a specific and legitimate reason, related to the location, for being at the location.

(d) *Medical exception.* An exception to the residency restriction set forth in subsection (a), but not subsection (b) of this section may be granted by the Community court upon a motion by a registered sex offender if all of the following conditions are met:

- (1) The sex offender is in compliance with all provisions of this chapter;
- (2) The sex offender provides reliable evidence that he or she has a temporary medical condition and because of that condition, he or she has no other place to live except a residence within the Community that is within the zone covered by subsection (a) of this section;
- (3) The temporary medical condition is physically disabling and limits mobility;
- (4) The Community prosecutor's office has an opportunity to review the evidence submitted and respond if appropriate;

- (5) The Community court makes a finding based upon the evidence presented that because of the temporary medical condition which is physically disabling and limits mobility, the sex offender will not present a danger to children in the Community for the time period covered by the medical exception;
- (6) The sex offender will promptly update the Community court if his or her temporary medical condition improves during the time period covered by the medical exception;
- (7) The Community court limits the duration of the exception to a period not to exceed 90 days, which can be renewed upon the presentation of new or updated medical evidence;
- (8) The Community prosecutor's office can seek to have the medical exception revoked if there is evidence that the sex offender no longer qualifies for the exception because his or her medical condition has improved or if he or she otherwise fails to comply with the remaining provisions of this article; and
- (9) The Community police department will stay the enforcement of subsection (a) of this section against an individual sex offender one time only for a period not to exceed 30 days upon the filing of a motion seeking a medical exception under subsection (d) of this section.

(e) *Penalties for violation.* A violation of any provision of this section is a Class B offense and may result in arrest for a sex offender subject to the registration requirements contained in this chapter and upon conviction, a fine, term of imprisonment, or both may be imposed, up to and including the maximum penalties allowed for a Class B offense.

(Ord. No. SRO-302-05, 3-16-2005; SRO-335-08, 6-25-2008; Ord. No. SRO-405-2012, § 6-158, 7-18-2012; Ord. No. SRO-420-2013, § 6-158, 3-6-2013; Ord. No. SRO-454-2015, § 6.5-10, 12-10-2014; Ord. No. SRO-471-2015, 7-15-2015)

Sec. 6.5-11. Community notification.

(a) *Sex offender database.* The Community police department shall maintain a database that contains all sex offender profiles, notification requirements, and website.

- (1) *Links.* The registry website shall include links to sex offender safety and education resources.
- (2) *Instructions.* The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
- (3) *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.
- (4) *Search capabilities.* The registry website shall have the capability of conducting searches by the following means:
 - a. Name;
 - b. County, city, and/or town; and
 - c. Zip code and/or geographic radius.
- (5) *Dru Sjodin National Sex Offender Public Website.* The Community 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.

(b) *Notification to victim, neighbors, schools, Community human resources department and offender's employer.* Within ten days of receiving registration information, the Community police shall distribute registration information in a manner to be determined by the Community police department's sex offenders registration and notification policies and procedures.

- (1) Upon a sex offender's registration or update of information with the Com-

munity, the Community public sex offender registry website is immediately updated.

- (2) The Community public sex offender website 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 Community, 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.

(c) *Information available to the public.* Such information shall also be available to the public at the police department and substations, and may be available on the Community intranet and on the internet.

- (1) *Required information.* The following information shall be made available to the public on the sex offender registry website:
 - a. If applicable, notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded;
 - b. All sex offenses for which the sex offender has been convicted;
 - c. The sex offense(s) for which the offender is currently registered;
 - d. The address of the sex offender's employer(s);
 - e. The name of the sex offender including all aliases;
 - f. A current photograph of the sex offender;

- g. A physical description of the sex offender;
 - h. The residential address and, if relevant, a description of a habitual residence of the sex offender;
 - i. All addresses of schools attended by the sex offender; and
 - j. The sex offender's vehicle license plate number along with a description of the vehicle.
- (2) *Prohibited information.* The following information shall not be available to the public on the sex offender registry website:
- a. Any arrest that did not result in conviction;
 - b. The sex offender's social security number;
 - c. Any travel and immigration documents;
 - d. The identity of the victim; and
 - e. Internet identifiers (as defined in 42 USC 16911).
- (3) *Witness protection.* For sex offenders who are under a witness protection program, the Community police may honor the request of the United States Marshal's 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.

(d) *Notification upon failure to register.* If an offender fails to register as required by this chapter, the police department may assemble, print and distribute appropriate flyers of the offender as if the offender were registered.

(e) *Persons registered with the state.* If the Community police department receives credible information that a person residing, temporarily domiciled, employed, or attending school within the Community is a registered sex offender with the state pursuant to A.R.S. § 13-3821 et seq., and that person has not registered with the Community, the police department shall make, or attempt to make, contact with the sex offender for

registration. If attempts to make contact with the sex offender are unsuccessful, within a reasonable time after receiving the information thereof, assemble, print and distribute appropriate flyers of the offender as if the offender were registered. If more than two attempts to make contact with the sex offender are unsuccessful, the Community police department shall take action pursuant to section 6.5-9, including notifying the U.S. Marshal's Service that the sex offender has failed to register and/or has absconded.

(f) *Notification regarding excluded persons.* If a person who is a registered sex offender with the Community is excluded from the Community, pursuant to chapter 7, the SRPMIC police department shall notify the jurisdiction where the offender intends to reside, and the jurisdiction of conviction.

(g) *Altering or removing a flyer.* Anyone found to have intentionally altered or removed a sex offender public notification flyer for the purpose of making the information contained in the flyer unavailable to the public shall be subject to a fine not to exceed \$200.00 per offense. (Ord. No. SRO-302-05, 3-16-2005; Ord. No. SRO-405-2012, § 6-159, 7-18-2012)

Sec. 6.5-12. Law enforcement notification.

Whenever a sex offender registers or updates his or her information with the Community, the Community police department shall:

- (1) Immediately update or submit updates to NCIC/NSOR or other relevant databases.
- (2) Immediately notify any agency, department, or program within the Community that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not limited to, police, FBI, Community prosecutors, and Community 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 appropriate National Child Protection Act agencies, which in-

cludes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 USC 5119a) when a sex offender registers or updates registration.

(Ord. No. SRO-405-2012, § 6-160, 7-18-2012)

Sec. 6.5-13. Immunities.

(a) *No waiver of immunity.* Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Community, its officials, departments, agencies, employees, or agents.

(b) *Good faith.* Any person acting under good faith of this chapter shall be immune from any civil liability arising out of such actions.

(Ord. No. SRO-405-2012, § 6-161, 7-18-2012)

Sec. 6.5-14. Failure to register.

(a) *In general.* Whoever is subject to the criminal jurisdiction of the Community and violates section 6.5-7, 6.5-8 or 6.5-9 shall be guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for not less than 180 days nor more than one year, and a fine of not less than \$2,000.00 nor more than \$5,000.00 and shall not eligible for parole.

(b) *Hindrance of sex offender registration.* Whoever knowingly harbors, or attempts to harbor, or knowingly assists any other person in harboring or attempting to harbor a person in violation of this chapter; or who knowingly assists a person in violation of this chapter in eluding a law enforcement agency seeking to contact the person regarding compliance with the requirements of this chapter; or who knowingly provides false information to law enforcement regarding a person in violation of this chapter shall be guilty of an offense and shall be sentenced to imprisonment for not more than 90 days, a fine of not more than \$5,000.00, or to both imprisonment and a fine.

(c) *Issuance of arrest warrant.* Upon the filing of a criminal complaint alleging a violation of subsection (a) of this section, and a finding of probable cause that there has been a violation, a judge of the Community court shall issue a war-

rant of arrest, consistent with the rules of criminal procedure, bearing the signature of a duly qualified judge of the Community court.

(d) *Concurrent jurisdiction.* If the violator is subject to the criminal jurisdiction of the Community, such violator may also be subject to prosecution in state or federal court for state or federal violations. Prosecution pursuant to this section does not preclude prosecution in other jurisdictions.

(e) *Aiding or abetting of failure to register as a sex offender.* Any person subject to the criminal jurisdiction of the Community and who violates this section shall be sentenced to a fine of no less than \$1,000.00 and a maximum of \$5,000.00 and/or imprisoned up to a maximum of 90 days. (Ord. No. SRO-302-05, 3-16-2005; SRO-335-08, 6-25-2008; Ord. No. SRO-405-2012, § 6-162, 7-18-2012)