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TITLE 21

NOOKSACK INDIAN TRIBE SEX OFFENDER REGISTRATION CODE

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Chapter 1

GENERAL MATTERS

21.01.010 Title.

This Code shall be known as “The Nooksack Indian Tribe Sex Offender Registration Code”.

21.01.020 Authority.

Pursuant to Article VI, Sections (H), (I) and (J), of the Nooksack Tribe’s Constitution and Bylaws, the Nooksack Tribal Council has established this ordinance to safeguard the peace and safety of the members of the Nooksack Indian Tribe, and to protect public health and morals.

21.01.030 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) (42 USC 16901 et seq.) and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended.

The Nooksack Tribal Council finds that this act is necessary for the preservation and protection of the tribal community, public peace, health and safety, and to support tribal sovereignty. Sex offender registration has assisted law enforcement agencies in protecting their community, conducting investigations, and quickly apprehend offenders who commit sex offenses who live within the law enforcement agencies’ jurisdiction. Therefore, the Nooksack Tribe’s policy is to assist local law enforcement agencies’ efforts to protect all communities by regulating sex offenders by requiring sex offenders to register with local law enforcement agencies. This act is intended to designate the deadlines for sex offender to register.

21.01.040 Effect.

This act shall take effect on June 12, 2012, with Resolution No. 12-60. It is the Tribal Council’s deliberate intent that the act be applied retroactively in cases where an offense has occurred prior to the adoption of this act.

21.01.050 Creation of Registries.

- A. Sex Offender Registry. There is hereby established a sex offender registry program, “The Nooksack Indian Tribe Sex Offender Registration”, which the Nooksack Tribal Police Department 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 Nooksack Tribal Police Department shall maintain and operate pursuant to the provisions of this code, as amended.

Chapter 2

TERMINOLOGY AND REGISTERABLE OFFENSES

21.02.010 Definitions.

The Definitions below apply to this code 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.

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 that elected to function as a SORNA registration and notification jurisdiction pursuant to PL 109-248 Section 127 (42 USC § 16927).

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.
- I. **Sex Offense.** The term “sex offense” as used in this code includes those offenses contained in 42 U.S.C. §16911(5) (as amended) and those offenses enumerated in Section 21.02.020 of this Code/Title or any other registerable offense under tribal law.

Except as limited by Nooksack Tribal Code Section 21.01.010(J), , the term “sex offense” also 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);
5. An attempt or conspiracy to commit an offense described in clauses (1) through (4);
6. 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.

- J. **Consensual Sex.** An offense involving consensual sexual conduct is not a sex offense for the purposes of this code 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.
- K. **Sex Offender.** A person convicted of a sex offense is a “sex offender”.
- L. **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.
- M. **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.
- N. **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.
- O. **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.
- P. **Sex Offender Registry.** The term “sex offender registry” means the registry of sex offenders, and a notification program, maintained by Nooksack Tribal Police Department, Deming, Washington.
- Q. **National Sex Offender Registry (NSOR).** The national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S.C. §16919.
- R. **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.

- S. **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.
- T. **“Tier I Sex Offender”.** A “tier I sex offender”, or a “sex offender” designated as “tier I”, is one that has been convicted of a “tier I” sex offense as defined in chapter 3, section 21.03.010.
- U. **“Tier II Sex Offender”.** A “tier II sex offender”, or a “sex offender” designated as “tier II”, is one that has been either convicted of a “tier II” sex offense as defined in chapter 3, section 21.03.020.
- V. **“Tier III Sex Offender”.** A “tier III sex offender”, or a “sex offender” designated as “tier III”, is one that has been either convicted of a “tier III” sex offense as defined in chapter 3, section 21.03.030.

21.02.020 Registerable 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:

- A. **Tribal Offenses.** A conviction, for or a conviction for an attempt or conspiracy to commit any offense included in the definition of “sex offense”, including offenses outlined in this section, under “Federal Offenses”. The following Tribal Offenses in Nooksack Tribal Code Title 20.04 are "Sex Offenses:
 - 1. Child Molestation in the First Degree (20.04.010)(Class A Offense)
 - 2. Child Molestation in the Second Degree (20.04.020)(Class B Offense)
 - 3. Child Molestation in the Third Degree (20.04.030)(Class C Offense)
 - 4. Indecent Liberties (20.04.040)(Class B Offense)
 - 5. Rape in the First Degree (20.04.050)(Class A Offense)
 - 6. Rape in the Second Degree (20.04.060)(Class A Offense)
 - 7. Rape in the Third Degree (20.04.070)(Class B Offense)
 - 8. Rape of a Child (20.04.080)(Class A Offense)
 - 9. Sexual Exploitation of Children (20.04.090)(Class A Offense)
 - 10. Sexual Misconduct with a Minor in the First Degree (20.04.110)(Class B Offense)
 - 11. Sexual Misconduct with a Minor in the Second Degree (20.04.120)(Class C Offense)
 - 12. Sexually Violating Human Remains (20.04.130) (Class A Offense)
 - 13. Voyeurism (20.04.140)(Class C Offense)
 - 14. Incest (20.04.150) (Class B Offense)(Class A Offense if Victim Under age 16 and Perpetrator More than 48 Months Older than Victim)
 - 15. Public Indecency (20.04.170)(Class C Offense)(Class B Offense if Victim Under 18)

16. Prostitution (20.04.160)(Class C Offense)(Class A Offense if Defendant Encourages Child Under 18 to Engage in Prostitution)

- B. Federal Offenses. A conviction, for or a conviction for an attempt or conspiracy to commit any of the following, and any other offense hereafter included in the definition of “sex offense” at 42 U.S.C. §16911(5): Including any offenses prosecuted under the Assimilative Crimes Act (18 USC §1152 or § 1153).
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 (), (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a Minor, Engaging in Illicit Sexual Conduct in Foreign Places)
 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.

- 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(a) and (b)) 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.
- F. **Jurisdiction Offenses.** Any sex offense committed in any jurisdiction, including this Tribe, that involves:
 - 1. Any conduct that by its nature is a sex offense against a minor,
 - 2. Any type or degree of genital, oral, or anal penetration,
 - 3. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing,
 - 4. 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,
 - 5. False imprisonment of a minor,
 - 6. Kidnapping of a minor
 - 7. Possession, production, or distribution of child pornography,
 - 8. Solicitation of a minor to practice prostitution
 - 9. 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,
 - 10. Use of a minor in a sexual performance
 - 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).

CHAPTER 3

TIERING OF OFFENSES

21.03.010 Tier I Offenses.

- A. Sex Offenses. A “Tier I” 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 II” or “Tier III” offense.
- B. Offenses Involving Minors. A “Tier I” offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country, pursuant to Chapter 2, Section 21.02.020(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 I” sex offense.
- 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).
- D. Certain Federal Offenses. Conviction for any of the following federal offenses or an attempt or conspiracy to commit such an offense shall be considered a conviction for a “Tier I” 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. §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),
 - 10. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), or
 - 11. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

21.03.020 Tier II Offenses.

- 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 or an attempt or conspiracy to commit such an offense and that is punishable by more than one year in jail is considered a “Tier II” offense.

- B. **Offenses Involving Minors.** A “Tier II” 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. A non-forcible Sexual Act with a minor 16 or 17 years old;
 4. 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;
 5. The use of a minor in a sexual performance; or,
 6. The production or distribution of child pornography.
- C. **Certain Federal Offenses.** Conviction for any of the following federal offenses or an attempt or conspiracy to commit such an offense shall be considered a conviction for a “Tier II” offense:
1. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion);
 2. 18 U.S.C. §2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain);
 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); or,
 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 Nooksack Tribal Code Section 21.03.020(A)(B) or (C) shall be considered a “Tier II” offense.

21.03.030 **Tier III 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 or an attempt or conspiracy to commit such an offense for a Tier II sex offense, or has previously become a Tier II sex offender, is a “Tier III” offense.

- B. General Offenses.** A “Tier III” 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 III” offense:
1. 18 U.S.C. §2241 (aggravated sexual abuse),
 2. 18 U.S.C. §2242 (sexual abuse),
 3. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
 4. 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 Nooksack Tribal Code Section 21.03.030 (A),(B), or (C) shall be considered a “Tier III” offense.

CHAPTER 4

REQUIRED INFORMATION

21.04.010 **General Requirements.**

- 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 Nooksack Tribal Police Department, and the Nooksack Tribal Police Department 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 Nooksack Tribal Police Department in a digitized format.
- C. **Electronic Database.** A sex offender registry shall be maintained in an electronic database by the Nooksack Tribal Police Department and shall be in a form capable of electronic transmission.

21.04.020 **Criminal History.**

The Nooksack Tribal 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.

21.04.030 **Date of Birth.**

The Nooksack Tribal 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.

21.04.040 **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 Nooksack Tribal Police Department or designee a sample of his DNA.

- B. CODIS. Any DNA sample obtained from the sex offender shall be submitted to the State of Washington DNA Laboratory for submission in CODIS.

21.04.050 Driver's Licenses, Identification Cards, Passports, and Immigration Documents.

- A. Driver's License. A covered sex offender shall provide all of the sex offender's valid driver's licenses issued by any jurisdiction and the Nooksack Tribal Police Department or designee shall make a photocopy of any such licenses.
- B. Identification Cards. A covered sex offender shall provide all of the sex offender's identification cards including the sex offender's tribal enrollment card issued by any jurisdiction and the Nooksack Tribal Police Department or designee shall make a photocopy of any such identification cards.
- C. Passports. A covered sex offender shall provide any passports used by the sex offender, and the Nooksack Tribal Police Department or designee shall make a photocopy of any such passports.
- D. Immigration Documents. A covered sex offender shall provide any and all immigration documents used by the sex offender, and the Nooksack Tribal Police Department or designee shall make a photocopy of any such documents.

21.04.060 Employment Information.

The Nooksack Tribal 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.

21.04.070 Finger and Palm Prints.

The Nooksack Tribal Police Department or designee shall obtain, and a covered sex offender shall provide, both finger prints, which must be submitted to IAFIS, and palm prints, which must be submitted to FBI Next Generation Identification Program.

21.04.080 Internet Identifiers.

The Nooksack Tribal 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 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, including but not limited to social network identifications, twitter accounts, video posting site identifications, such as YouTube etc.

21.04.090 Name.

The Nooksack Tribal 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.

21.04.100 Phone Numbers.

The Nooksack Tribal Police Department or designee shall obtain, and a covered sex offender shall provide, any and all telephone numbers and any other designations used by sex offenders for purposes of routing or self-identification in telephonic communications including but not limited to:

1. any and all cellular telephone numbers;
2. any and all land line telephone numbers; and,
3. any and all Voice over IP (VOIP) telephone numbers

21.04.110 Picture.

A. Photograph. A covered sex offender shall permit his photograph to be taken by the Nooksack Tribal Police Department or designee:

1. every 90 days for Tier III sex offenders.
2. every 180 days for Tier II sex offenders.
3. every year for Tier I sex offenders.

B. Update Requirements: Unless the appearance of a sex offender has not changed significantly a digitized photograph shall be collected at each appearance as indicated above, in Section 21.04.110(A).

21.04.120 Physical Description.

The Nooksack Tribal 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; and,
3. photographing any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

21.04.130 Professional Licensing Information.

The Nooksack Tribal 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.

21.04.140 Residence Address.

The Nooksack Tribal 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 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.

21.04.150 School.

The Nooksack Tribal 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.

21.04.160 Social Security Number.

The Nooksack Tribal 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.

21.04.170 Temporary Lodging.

The Nooksack Tribal 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 residence for seven (7) days or more:

1. identifying information of the temporary lodging locations including addresses and names;
2. the dates the sex offender will be staying at each temporary lodging location; and,
3. the registered sex offender shall provide the information in Section 21.04.170 (1) and

(2) no later than ten (10) days before his/her scheduled travel. The information shall be provided in person.

21.04.180 International Travel.

Sex offenders must inform their residence jurisdictions twenty-one (21) days in advance if they intend to travel outside of the United States. Jurisdictions 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.

21.04.190 Offense Information.

The Nooksack Tribal Police Department or designee shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

21.04.200 Vehicle Information.

The Nooksack Tribal 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. 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.

21.04.210 Frequency, Duration and Reduction.

A. Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the Nooksack Tribal Police Department for purposes of verification and keeping their registration current in accordance with the following time frames:

1. For "Tier I" 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 II" 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 III" 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 I offender may have his or her period of registration reduced to ten (10) years if he or she has maintained a clean record for ten (10) consecutive years.
2. A Tier III offender may have his or her period of registration reduced to twenty-five (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 twenty-five (25) consecutive

years.

C. **Clean Record.** For purposes of Chapter 21.04.200(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;
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.

21.04.220 Requirements For In Person Appearances.

- A. **Photographs.** At each in person verification, the sex offender shall permit the Nooksack Tribal Police Department 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 Nooksack Tribal Police Department shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.
- D. If any new information or change in information is obtained at an in person verification, the Nooksack Tribal Police Department shall immediately update the public website, if applicable, and update information in NCIC/NSOR.

21.04.230 Sex Offender Acknowledgement Form.

The sex offender shall read, or have read to them, and sign a form stating that the duty to register has been explained to them by Nooksack Tribal Police Department and that the sex offender understands the registration requirement.

The form shall be signed and dated by the Nooksack Tribal Police Department personnel registering the sex offender.

The Nooksack Tribal Police Department shall immediately upload the acknowledgement form into the Nooksack Tribal Police Department sex offender registry.

CHAPTER 5

REGISTRATION

21.05.010 Where Registration Is Required.

- A. **Jurisdiction of Conviction.** A sex offender must initially register with the Nooksack Tribal Police Department 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 Nooksack Tribal Police Department of the Nooksack Indian Tribe 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 Nooksack Tribal Police Department of the Nooksack Indian Tribe if the sex offender resides within lands subject to the jurisdiction of the Tribe.
- D. **Jurisdiction of Employment.** A sex offender must register with the Nooksack Tribal Police Department of the Nooksack Indian Tribe 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.
- E. **Jurisdiction of School Attendance.** A sex offender must register with the Nooksack Tribal Police Department of the Nooksack Indian Tribe if the sex offender is a student in any capacity within lands subject to the jurisdiction of the Tribe.

21.05.020 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 the Nooksack Indian Tribe for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
 - 2. if convicted by the Nooksack Indian Tribe but not incarcerated, within three (3) business days of sentencing for the registration offense; and,
 - 3. within three (3) business days of establishing a residence, commencing employment, or becoming a student on lands subject to the jurisdiction of the Tribe, a sex offender must appear in person to register with Nooksack Tribal Police Department.
- B. **Duties of Nooksack Tribal Police Department.** The Nooksack Tribal Police Department 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 (See the requirement and guidance in Section 21.04.230 above).

3. that the sex offender is registered, and added to the public website if applicable;
4. that 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; and,
5. that all information is entered and updated in NCIC/NSOR.

21.05.030 Retroactive Registration.

- A. **Retroactive Registration.** The Nooksack Tribal 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 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; and,
 3. sex offenders reentering the justice system due to conviction for any crime.
- B. **Timing of Recapture.** The Nooksack Tribal Police Department shall ensure recapture of the sex offenders mentioned in Section 21.05.030(A) within the following timeframe to be calculated from the date of passage of this code:
 1. For Tier I sex offenders, one (1) year.
 2. For Tier II sex offenders, one hundred eighty (180) days.
 3. For Tier III sex offenders, ninety (90) days.

21.05.040 Keeping Registration Current.

- A. **Jurisdiction of Residency.** All sex offenders who reside in lands subject to the jurisdiction of the Tribe who are required to register in this jurisdiction shall immediately appear in person Nooksack Tribal 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 Nooksack Tribal Police Department in person of any changes to their temporary lodging information, to their vehicle information, internet identifiers, or telephone numbers. In the event of a change in temporary lodging, of over 7 days the sex offender shall immediately notify the registry official of the residence jurisdiction and the Nooksack Tribal Police Department shall 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 regardless of location that change their school, or otherwise terminate their schooling, shall immediately appear in person at the Nooksack Tribal Police Department to update that information. The Nooksack Tribal 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.
- 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 regardless of

location that change their employment, or otherwise terminate their employment, shall immediately appear in person at the Nooksack Tribal Police Department to update that information. The Nooksack Tribal 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.

21.05.050 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 Nooksack Tribal Police Department 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.

- B. **Absconded Sex Offenders.** If the Nooksack Tribal Police Department or designee receives information that a sex offender has absconded the Nooksack Tribal Police Department shall make an effort to determine if the sex offender has actually absconded.
 - 1. In the event no determination can be made, the Nooksack Tribal Police Department 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/public website 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 NCIC/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 residence, employment or school attendance status fails to do so or otherwise violates a registration requirement of this code, the Nooksack Tribal Police Department shall take all appropriate follow-up measures including those outlined in Section 21.05.050(B). The Nooksack Tribal Police Department shall first make an effort to determine if the sex offender is actually resides, is employed or attending school in lands subject to the Tribe's jurisdiction.

CHAPTER 6

PUBLIC SEX OFFENDER REGISTRY WEBSITE

21.06.010 Website.

- A. Website. The Nooksack Tribal Police Department shall use and maintain a public sex offender registry website.
- B. Links. The Nooksack Indian Tribe sex offender registry website shall include links to sex offender safety and education resources.
- C. Instructions. The Nooksack Indian Tribe sex offender registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
- D. Warnings. The Nooksack Indian Tribe sex offender 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 Nooksack Indian Tribe sex offender 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 registry 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.

21.06.020 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.

21.06.030 Community Notifications.

A. **Law Enforcement Notification.** Whenever a sex offender registers or updates his or her information with the Tribe, the Nooksack Tribal Police Department shall:

1. Monitor and utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status.
2. Immediately update NCIC/NSOR,
3. 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.
4. 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.
5. 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.
6. Enter or update information posted on the public website.

B. **Community Notification.** The Nooksack Tribal Police Department 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; and,
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.

Chapter 7

SANCTIONS

21.07.010 **Failure to Register as a Sex Offender-- Penalties.**

A person commits the offense of failure to register as a sex offender if the person has a duty to register under Chapter 5 of this Title and knowingly fails to comply with any of the requirements of Chapter 4 or Chapter 5 of this Title.

- A. The failure to register as a sex offender pursuant to this section shall be a Class B offense if it is the person's first conviction for failure to register as a sex offender.
- B. The failure to register as a sex offender pursuant to this section shall be a Class A offense if it is the person's second or subsequent conviction for failure to register as a sex offender.

21.07.020 **Applicability of Exclusion.**

Any person subject to the requirements of this Title or who has been convicted of any crime delineated under this Title shall be subject to exclusion under applicable tribal law.

21.07.030 **Hindrance of Sex Offender Registration.**

A person commits the offense of Hindering Sex Offender Registration 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.

Hindrance of Sex Offender Registration shall be a Class C offense.

CHAPTER 8

SOVEREIGN IMMUNITY, GOOD FAITH, SEVERABILITY and AMENDMENTS

21.08.010 **Sovereign Immunity.**

Nothing under this chapter shall be construed as a waiver of sovereign immunity for Nooksack Indian Tribe, the Nooksack Tribal Police Department, its' departments, agencies, employees, or agents.

21.08.020 **Good Faith.**

Any person acting under good faith of this Title shall be immune from any civil liability arising out of such actions.

21.08.030 **Severability.**

If any provision of this Ordinance, or its' application to any person, legal entity or circumstance is held invalid, the remainder of the Ordinance, or the application of the provision to other persons, legal entities, or circumstances, shall not be affected.

21.08.040 **Amendments.**

The Nooksack Tribal Council may amend this ordinance by a majority vote of a quorum at a duly called meeting, provided that any amendments may not be made at any time during an election in progress.