

**BAY MILLS INDIAN COMMUNITY  
SEX OFFENDER REGISTRATION ORDINANCE**

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SEX OFFENDER REGISTRATION AND NOTIFICATION ORDINANCE  
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## CHAPTER 1 GENERAL MATTERS

### SECTION 1.01 TITLE

This Ordinance shall be known as the Bay Mills Indian Community Sex Offender Registration Ordinance.

### SECTION 1.02 CREATION OF REGISTRIES

- A. Sex Offender Registry. There is hereby established a sex offender registry, which the Bay Mills Law Enforcement 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 Bay Mills Law Enforcement Department shall maintain and operate pursuant to the provisions of this code, as amended.
- C. The Bay Mills Law Enforcement Department shall appoint a law enforcement officer with special training to carry out its duties as established hereunder, but may designate another law enforcement or court administrative services agency for particular purposes.

## CHAPTER 2 TERMINOLOGY AND COVERED OFFENSES

### SECTION 2.01 DEFINITIONS

The Definitions below apply to this Ordinance only.

- A. Convicted. An adult sex offender is “convicted” for the purposes of this code if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.
  - A juvenile offender is “convicted” for purposes of this code if the juvenile offender is either:
    1. Prosecuted and found guilty as an adult for a sex offense; or
    2. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in either (a) or (b) of section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.
- B. Dru Sjodin National Sex Offender Public Website (NSOPW). “NSOPW” means the public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.
- C. Employee. The term “employee” as used in this Ordinance 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. Foreign Convictions. A “Foreign Conviction” is a conviction obtained outside of the United States.
- E. Homeless. “Homeless” means a person who does not have a permanent or temporary residence and who may have a temporary abode at the home of a family member or friend or at a shelter. A homeless person is subject to the registration requirements set out in this code. A homeless person is also required to verify their address with Bay Mills Law Enforcement Department even if that

address is a bench on a specific street, a tent or camper in a particular location, or any such place where the sex offender frequents or stations himself during the day or sleeps at night.

- F. Immediate. “Immediate” and “immediately” mean within 3 business days.
- G. 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 Ordinance during their period of “house arrest”.
- H. Indian. “Indian” means any individual that is a member of a federally-recognized Indian tribe or who has otherwise been determined to be an Indian for purposes of federal or tribal law.
- I. Jurisdiction. The term “jurisdiction” as used in this code refers to that of 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.
- J. Loiter. “Loiter” means standing or sitting idly whether in or out of a vehicle, or remaining in or around property not their own, without permission and a legitimate reason.
- K. Minor. “Minor” means an individual who has not attained the age of 18 years.
- L. National Sex Offender Registry (NSOR). “NSOR” means the national database maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16919.
- M. Non-Indian. “Non-Indian” means, a person who is not a member of a federally recognized Indian tribe.
- N. Non-Member Indian. “Non-Member Indian” means, an Indian who is not a member of the Bay Mills Indian Community.
- O. Playground. “Playground” means any small or large open space where children play or gather with or without dedicated play equipment, any place for outdoor games and recreation, any athletic field, any playing field or any court.”
- P. Residence. “Residence” means, a place where a person is living, temporarily staying for more than five days, or where the individual habitually lives or sleeps, such as a shelter or structure that can be located by a street address; including but not limited to houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.
- Q. Resides. “Resides” or “reside” means, with respect to an individual, the location of the individual's residence; including any person who maintains a permanent or temporary residence, such as students, temporary employees, and military personnel on assignment.
- R. School. The term “School” includes but is not limited to any real property, building, facility, or room in a building or facility that is:
  - 1. Designated as a public or private daycare, childcare facility, preschool, elementary school, secondary school, trade school, professional school, or institute of higher learning; or
  - 2. Used for teaching, training, supervision, or recreation for children of any age, for the disabled, or for the elderly.
- S. School Personnel. “School Personnel” includes but is not limited to teachers, caregivers, principals, administrators, superintendents of schools, a member of the school board, or employee or contractor of any entity working for or rendering or exchanging any service or performing any act for or on behalf of a school in any capacity full or part time.

- T. Sex Offender. A person convicted of a sex offense is a “sex offender”.
- U. Sex Offender Registry. The term “sex offender registry” means the registry of sex offenders, and a notification program, maintained by Bay Mills Law Enforcement Department.
- V. Sex Offense. The term “sex offense” as used in this code includes those offenses contained in 42 U.S.C. §16911(5) and those offenses enumerated in Section 2.02 of this Ordinance or any other covered offense under tribal law.
- W. 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.
- X. Sexual Contact. “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 another person.
- Y. 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.
- Z. “Tier 1 Sex Offender”. A “tier 1 sex offender”, or a “sex offender” designated as “tier 1”, is one that has been convicted of a “tier 1” sex offense as defined in section 3.01.
- AA. “Tier 2 Sex Offender”. A “tier 2 sex offender”, or a “sex offender” designated as “tier 2”, is one that has been either convicted of a “tier 2” sex offense as defined in section 3.02, or who is subject to the recidivist provisions of 3.02(B).
- BB. “Tier 3 Sex Offender”. A “tier 3 sex offender”, or a “sex offender” designated as “tier 3”, is one that has been either convicted of a “tier 3” sex offense as defined in section 3.03, or who is subject to the recidivist provisions of 3.03(B).
- CC. Tribal Lands. “Tribal Lands” means, the Tribe’s reservation lands, lands held in Trust for the Tribe by the United States for its benefit and any other property subject to the Tribe’s governmental authority.

## SECTION 2.02 COVERED OFFENSES

Individuals who reside within Tribal Lands, whose employment is on Tribal Lands, or who attend school on Tribal Lands, that have been convicted of any of the following offenses, or convicted of an attempt or conspiracy to commit any of the offenses listed, except as limited by subparagraph E or F, are deemed to have committed a Sex Offense and are deemed a Sex Offender who is subject to the requirements of this Ordinance:

- A. A criminal offense that has an element involving a sexual act or sexual contact with another;
- B. 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:

1. An offense (unless committed by a parent or guardian) involving kidnapping;
  2. An offense (unless committed by a parent or guardian) involving false imprisonment;
  3. Solicitation to engage in sexual conduct;
  4. Use in a sexual performance;
  5. Solicitation to practice prostitution;
  6. Video voyeurism as described in 18 U.S.C. §1801;
  7. Possession, production, or distribution of child pornography;
  8. Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct; or
  9. Any conduct that by its nature is a sex offense against a minor.
- C. 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;
- D. A military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or
- E. Foreign Offenses. A foreign conviction is not a sex offense for the purposes of this Ordinance unless it was either:
1. obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or
  2. 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.
- F. Offenses involving Consensual Sexual Conduct. An offense involving consensual sexual conduct is not a sex offense for the purposes of this Ordinance if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.

## CHAPTER 3 TIERED OFFENSES

### SECTION 3.01 TIER 1 OFFENSES

- A. Sex Offenses. A “Tier 1” offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that is not a “Tier 2” or “Tier 3” offense.
- B. Offenses Involving Minors. A “Tier 1” offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 2.02(E) 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 by the jurisdiction of a tribal court to one year in jail shall be considered a “Tier 1” sex offense.

D. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a “Tier 1” offense:

1. 18 U.S.C. §1801 (video voyeurism of a minor),
2. 18 U.S.C. §2252 (receipt or possession of child pornography),
3. 18 U.S.C. §2252A (receipt or possession of child pornography),
4. 18 U.S.C. §2252B (misleading domain names on the internet),
5. 18 U.S.C. §2252C (misleading words or digital images on the internet),
6. 18 U.S.C. §2422(a) (coercion to engage in prostitution),
7. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), or
8. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

E. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 3.01(A),(B),(C), or (D) shall be considered a “Tier 1” offense.

## SECTION 3.02 TIER 2 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 that is punishable by more than one year in jail is considered a “Tier 2” offense.

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

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

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

1. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
2. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
3. 18 U.S.C. §2244 (Abusive sexual contact, where the victim is 13 years of age or older),
4. 18 U.S.C. §2251 (sexual exploitation of children),
5. 18 U.S.C. §2251A (selling or buying of children),
6. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),

7. 18 U.S.C. §2252A (production or distribution of material containing child pornography),
8. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
9. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
10. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution),
11. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct),
12. 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct),
13. 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places),
14. 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).

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

### SECTION 3.03 TIER 3 OFFENSES

- A. Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction for a Tier 2 sex offense, or has previously become a Tier 2 sex offender, is a “Tier 3” offense.
- B. General Offenses. A “Tier 3” offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:
  1. Non-parental kidnapping of a minor,
  2. A sexual act with another by force or threat,
  3. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate, or
  4. Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.
- C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a “Tier 3” offense:
  1. 18 U.S.C. §2241 (a) and (b) (aggravated sexual abuse),
  2. 18 U.S.C. §2242 (sexual abuse), or
  3. Where the victim is 12 years of age or younger, 18 U.S.C. §2244 (abusive sexual contact).
- D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 3.03(A),(B), or (C) shall be considered a “Tier 3” offense.

## CHAPTER 4 REQUIRED INFORMATION

### SECTION 4.01 GENERAL REQUIREMENTS

- 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 Bay Mills Law Enforcement Department, and the Bay Mills Law Enforcement 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 Ordinance and shall implement any relevant policies and procedures.
- B. Digitization. All information obtained under this code shall be, at a minimum, maintained by the Bay Mills Law Enforcement Department or its designee in a digitized format.
- C. Electronic Database. A sex offender registry shall be maintained in an electronic database by the Bay Mills Law Enforcement Department or its designee and shall be in a form capable of electronic transmission.

### SECTION 4.02 CRIMINAL HISTORY

The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's criminal history:

- A. The date of all arrests,
- B. The date of all convictions,
- C. The sex offender's status of parole, probation, or supervised release,
- D. The sex offender's registration status, and
- E. Any outstanding arrest warrants.

### SECTION 4.03 DATE OF BIRTH

The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:

- A. The sex offender's actual date of birth, and
- B. Any other date of birth used by the sex offender.

### SECTION 4.04 DNA SAMPLE

- A. DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Bay Mills Law Enforcement Department a sample of his DNA.
- B. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.

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

- A. Driver's License. The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.

- B. Identification Cards. The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.
- C. Passports. The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, a photocopy of any passports issued to the sex offender.
- D. Immigration Documents. The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents issued to the sex offender.

#### **SECTION 4.06 EMPLOYMENT INFORMATION**

The Bay Mills Law Enforcement Department 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 as defined in this Ordinance:

- A. The name of the sex offender's employer,
- B. The address of the sex offender's employer, and
- C. Similar information related to any transient or day labor employment.

#### **SECTION 4.07 FINGER AND PALM PRINTS**

The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, both finger prints and palm prints of the sex offender in a digitized format.

#### **SECTION 4.08 INTERNET IDENTIFIERS**

The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity:

- A. Any and all email addresses used by the sex offender,
- B. Any and all Instant Message addresses and identifiers,
- C. Any and all other designations or monikers used for self-identification in internet communications or postings, and
- D. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

#### **SECTION 4.09 NAME**

The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:

- A. The sex offender's full primary given name,
- B. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
- C. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

## **SECTION 4.10 PHONE NUMBERS**

The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's telephone numbers:

- A. Any and all land line telephone numbers, and
- B. Any and all cellular telephone numbers.

## **SECTION 4.11 PICTURE**

- A. Photograph. The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.
- B. Update Requirements. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected :
  - 1. Every 90 days for Tier 3 sex offenders,
  - 2. Every 180 days for Tier 2 sex offenders, and
  - 3. Every year for Tier 1 sex offenders.

## **SECTION 4.12 PHYSICAL DESCRIPTION**

The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

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

## **SECTION 4.13 PROFESSIONAL LICENSING INFORMATION**

The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

## **SECTION 4.14 RESIDENCE ADDRESS**

The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:

- A. The address of each residence at which the sex offender resides or will reside, and
- B. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

## **SECTION 4.15 SCHOOL**

The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:

- A. The address of each school where the sex offender is or will be a student, and
- B. The name of each school the sex offender is or will be a student.

## **SECTION 4.16 SOCIAL SECURITY NUMBER**

The Bay Mills Law Enforcement Department shall obtain, and a covered sex offender shall provide, the following information:

- A. A valid social security number for the sex offender, and
- B. Any social security number the sex offender has used in the past, valid or otherwise.

## **SECTION 4.17 OFFENSE INFORMATION**

The Bay Mills Law Enforcement Department shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

## **SECTION 4.18 VEHICLE INFORMATION**

The Bay Mills Law Enforcement Department 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:

- A. License plate numbers,
- B. Registration numbers or identifiers,
- C. General description of the vehicle to include color, make, model, and year, and
- D. Any permanent or frequent location where any covered vehicle is kept.

## **SECTION 4.19 FREQUENCY, DURATION AND REDUCTION**

A sex offender who is required to register shall, at a minimum, appear in person at the Bay Mills Law Enforcement Department for purposes of verification and keeping their registration current in accordance with the following time frames:

- A. 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.
  - B. 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.
  - C. For “Tier 3” offenders, once every 90 days for the rest of their lives.
- D. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:
- 1. A Tier 1 offender may have his or her period of registration reduced to 10 years if he or she has maintained a clean record for 10 consecutive years;
  - 2. A Tier 3 offender may have his or her period of registration reduced to 25 years if he or she was adjudicated delinquent of an offense as a juvenile that required Tier 3 registration and he or she has maintained a clean record for 25 consecutive years.
- E. Clean Record. For purposes of Chapter 4.19(D) 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.

#### SECTION 4.20 REQUIREMENTS FOR IN PERSON APPEARANCES

- A. Photographs. At each in person verification, the sex offender shall permit the Bay Mills Law Enforcement 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 Bay Mills Law Enforcement Department shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.

### CHAPTER 5 REGISTRATION

#### SECTION 5.01 WHERE REGISTRATION IS REQUIRED

- A. Jurisdiction of Conviction. A sex offender must initially register with the Bay Mills Law Enforcement 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 Bay Mills Law Enforcement Department 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 Bay Mills Law Enforcement Department if the sex offender resides on Tribal Lands.
- D. Jurisdiction of Employment. A sex offender must register with the Bay Mills Law Enforcement Department if he or she is employed by the tribe in any capacity or otherwise is employed on Tribal Lands.
- E. Jurisdiction of School Attendance. A sex offender must register with the Bay Mills Law Enforcement Department if the sex offender is a student in any capacity on Tribal Lands.

#### SECTION 5.02 TIMING OF REGISTRATION

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

3. Within 3 business days of establishing a residence, commencing employment, or becoming a student on Tribal Lands, a sex offender must register with the Bay Mills Law Enforcement Department.
- B. Duties of the Bay Mills Law Enforcement Department. The Bay Mills Law Enforcement Department shall have policies and procedures in place to ensure the following:
  1. That any sex offender required to register with the Tribe for a covered sex offense 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,
  2. That the sex offender is registered, and
  3. 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 the NSOR.

#### SECTION 5.03 RETROACTIVE REGISTRATION

- A. Retroactive Registration. The Bay Mills Law Enforcement 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 Ordinance:
  1. Sex offenders incarcerated or under the supervision of the Tribe, whether for a covered sex offense or other crime,
  2. Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the Tribe's laws, and
  3. Sex offenders reentering the justice system due to conviction for any crime.
- B. Timing of Recapture. The Bay Mills Law Enforcement Department shall ensure recapture of the sex offenders mentioned in Section 5.03(A) within the following timeframe to be calculated from the date of passage of this Ordinance:
  1. For Tier 1 sex offenders, 1 year,
  2. For Tier 2 sex offenders, 180 days, and
  3. For Tier 3 sex offenders, 90 days.

#### SECTION 5.04 KEEPING REGISTRATION CURRENT

- A. Jurisdiction of Residency. All sex offenders required to register in this jurisdiction shall immediately appear in person to the Bay Mills Law Enforcement 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 Bay Mills Law Enforcement Department via electronic mail, facsimile or letter 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 Bay Mills Law Enforcement Department shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.
- B. Jurisdiction of School Attendance. Any sex offender who is a student in any capacity on Tribal Lands regardless of location that change their school, or otherwise terminate their schooling, shall immediately appear in person at the Bay Mills Law Enforcement Department to update that information. The Bay Mills Law Enforcement 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 on Tribal Lands regardless of location that change their employment, or otherwise terminate their employment, shall immediately appear in person at the Bay Mills Law Enforcement Department to update that information. The Bay Mills Law Enforcement 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.

D. Duties of Bay Mills Law Enforcement Department. With regard to changes in a sex offender's registration information, the Bay Mills Law Enforcement Department or designee shall immediately notify:

1. All jurisdictions where a sex offender intends to reside, work, or attend school,
2. Any jurisdiction where the sex offender is either registered or required to register, and
3. Specifically with respect to information relating to a sex offender's intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service. The Bay Mills Law Enforcement Department shall also ensure this information is immediately updated on NSOR.

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

A. Failure to Appear. In the event a sex offender fails to register with the tribe as required by this code, the Bay Mills Law Enforcement Department 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 Bay Mills Law Enforcement Department receives information that a sex offender has absconded the Bay Mills Law Enforcement Department shall make an effort to determine if the sex offender has actually absconded.

1. In the event no determination can be made, the Bay Mills Law Enforcement Department shall ensure that all other appropriate law enforcement agencies are 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 Bay Mills Law Enforcement Department 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 Ordinance, the Bay Mills Law Enforcement Department shall take all appropriate follow-up measures including those outlined in Section 5.05(B). The Bay Mills Law Enforcement Department shall first make an effort to determine if the sex offender is actually employed or attending school in on Tribal Lands.

## CHAPTER 6 PUBLIC SEX OFFENDER REGISTRY WEBSITE

### SECTION 6.01 WEBSITE

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

### SECTION 6.02 REQUIRED AND PROHIBITED INFORMATION

- A. Required Information. The following information shall be made available to the public on the sex offender registry website:
  1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
  2. All sex offenses for which the sex offender has been convicted,
  3. The sex offense(s) for which the offender is currently registered,
  4. The address of the sex offender's employer(s),
  5. The name of the sex offender including all aliases,
  6. A current photograph of the sex offender,
  7. A physical description of the sex offender,
  8. The residential address and, if relevant, a description of a habitual residence of the sex offender,
  9. All addresses of schools attended by the sex offender, and
  10. The sex offender's vehicle license plate number along with a description of the vehicle.
- B. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:

1. Any arrest that did not result in conviction,
  2. The sex offender's social security number,
  3. Any travel and immigration documents,
  4. The identity of the victim, and
  5. Internet identifiers (as defined in 42 U.S.C. §16911).
- C. Witness Protection. For sex offenders who are under a witness protection program, the Bay Mills Law Enforcement Department may honor the request of the United States Marshals Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

#### SECTION 6.03 COMMUNITY NOTIFICATION

- A. Law Enforcement Notification. Whenever a sex offender registers or updates his or her information, the Bay Mills Law Enforcement Department or its designee shall:
1. Immediately notify the FBI or other federal agency as designated by the Attorney General in order that the information may be updated on NSOR, NCIC or other relevant databases,
  2. Immediately notify any agency, department, or program within the Tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not limited to police—whether Bureau of Indian Affairs, tribal, or FBI—tribal prosecutors, and tribal probation.
  3. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment.
  4. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a) when a sex offender registers or updates registration.
- B. Community Notification. The Bay Mills Law Enforcement 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.
  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 on Tribal Lands, 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. Public Information. The Bay Mills Law Enforcement Department may release to any person, entity, or organization, upon a written request, the name, address or location; most recent photograph, if available; date of photograph; place of employment; address of school attended; vehicle description and license plate numbers; crime for which convicted; date and place of

conviction of any registrant; hair; eye color; height; race; sex and age of any sex offender registered pursuant to this Ordinance; and any other information deemed necessary for the protection of the public. Additionally, the Bay Mills Law Enforcement Department may utilize an internet web site or other electronic means to release the information. Records maintained pursuant to this Ordinance shall be open to law enforcement agencies which shall be authorized to release relevant and necessary information regarding sex offenders to the public. Information disclosed pursuant to this subsection shall not include information that would identify the victim.

## CHAPTER 7 PROHIBITED AREAS

### SECTION 7.01 SCHOOLS AND PLAYGROUNDS

- A. Presence At and Around Schools and Playgrounds Prohibited. Unless exempted under Section C., it is unlawful for a sex offender under this Section to do any of the following:
  1. Be present in any school building, on real property comprising any school or playground, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) years are present in the building, on the grounds or in the conveyance; or
  2. Loiter or work within one thousand (1000) feet of a school building or real property comprising any school or a playground.
- B. A sex offender who is a parent or guardian of a student attending the school, and who complies with subsection C., below, may be present on school property if the sex offender is:
  1. Attending a conference at the school with school personnel to discuss the progress of the sex offender's child, academically or socially;
  2. Participating in child review conferences in which evaluation and placement decisions may be made with respect to the sex offender's child regarding special education services;
  3. Attending conferences to discuss other student issues concerning the sex offender's child, such as retention and promotion;
  4. Transporting the sex offender's child to and from school; or
  5. Present at the school because the presence of the sex offender had been requested by the principal or administrator for any other reason relating to the welfare of the child.
- C. Permission exemption. Permission to be present at a school may be granted by a school superintendent or the school board. If permission is granted, the superintendent or school board president must inform the principal of the school where and when the sex offender will be present in the school. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official with knowledge of the parent's status as a sex offender. To qualify for the exemption contained in this subsection C., a parent or

guardian who is required to register as a sex offender must notify the principal upon arrival to and upon departure from the school, unless the offender:

1. Has written permission to be present from the school superintendent or school board; or
  2. The principal has granted on-going permission, in writing, for regular visits of a routine nature.
- D. Voting. Nothing in this section shall be construed to infringe upon the constitutional right of a sex offender to be present in a school building that is used as a polling place for the purpose of voting.
- E. Subsection A. of this section as it applies to schools, but not as it applies to playgrounds, shall not apply to a sex offender who is legally enrolled in a particular school or is participating in a school-sponsored educational program located at a particular school when the sex offender is present at that school, and is otherwise compliant with this code.

## SECTION 7.02 PLACE OF RESIDENCE

- A. Residence Within One Thousand Feet of a School, Daycare or Playground Prohibited. No sex offender shall reside within one thousand feet (1000') of any school, day care, or playground which is in existence at the time the individual begins to reside at the location.
- B. If a sex offender has already established a residence, and a school, day care, or playground is subsequently built or placed within one thousand feet (1000') of the sex offender's residence, then the sex offender, not less than one week before the opening of such school, shall notify the Bay Mills Law Enforcement Department that he or she is now residing within one thousand feet (1000') of such school, and shall provide verifiable proof to the Bay Mills Law Enforcement Department that he or she resided there prior to the opening of such school. All registered sex offenders convicted prior to enactment of this Ordinance AND still living within a playground restricted area may not initiate or maintain contact with minors in the restricted area.
- C. Restrictions and prohibitions other than the prohibition on initiating or maintaining contact with minors in the restricted area in the above subsections do not apply to an sex offender already residing within a school, day care, or playground restricted area prior to the enactment and effective date of this Ordinance, or an offender who is incarcerated or is at a facility within the area, or worked within the prohibited area prior to the effective date, or to offenders who intermittently or sporadically enter a prohibited area for the purposes of work.

## CHAPTER 8 IMMUNITY

- A. No waiver of immunity. Nothing under this chapter shall be construed as a waiver of sovereign immunity by the Bay Mills Indian Community, its departments, agencies, employees, or agents.
- B. Good faith. Any person acting under good faith of this Ordinance shall be immune from any civil liability arising out of such actions.

## CHAPTER 9 CRIMES AND CIVIL SANCTIONS

- A. Criminal penalty. Each violation of a provision of this Title by a sex offender who is an Indian shall be considered a crime and subject to a period of incarceration of up to one (1) year and /or a fine of up to five thousand dollars (\$5000).
- B. Civil Penalty. Each violation of a provision of this Title by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt.
- C. Hindrance of sex offender registration. A person is guilty of an offense if they:
  - 1. 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;
  - 2. 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
  - 3. Provides information to law enforcement agency regarding a sex offender which the person knows to be false.