SEX OFFENDER REGISTRATION ACT—ORDINANCE
ORDINANCE #11-400-11

ARTICLE I. SHORT TITLE

1.01 *Short Title.* This Ordinance may be cited as the "Sex Offender Registry Ordinance" or "SORNA."

ARTICLE II. FINDINGS; PURPOSE

2.01 The Tribal Council finds that:

a. It is delegated responsibility, in Article IV, Section 7(a) of the constitution, "to exercise the inherent powers of the Little River Band by establishing ordinances through the enactment of ordinances and adoption of resolutions not inconsistent with this Constitution:

1. to govern the conduct of members of the Little River Band and other persons within its jurisdiction;

2. to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members;" and,

b. It is further delegated responsibility, in Article IV, Section 7(j) of the Constitution, "to take action, not inconsistent with this Constitution or Federal law, which shall be necessary and proper to carry out the sovereign legislative powers of the Tribe." and,

c. Article IV, Section 7 of the Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the responsibility and authority to exercise the inherent powers of the Little River Band by establishing laws through the enactment of ordinances and adoption of resolutions not inconsistent with the Constitution:

1. to govern the conduct of members of the Little River Band and other persons within its jurisdiction;

2. to promote, protect, and provide for public health, peace, morals, education, and general welfare of the Little River Band and its members; and

d. The regulation, control, and prohibition of certain activities and conduct on the Tribe's reservation is necessary to protect the health, security, and general welfare of the Tribe, its members, and the general public on the Tribe's reservation; and,

e. That sex offenders present a risk to reoffend and that the efforts of law enforcement to protect the community, to conduct investigations, and to apprehend those who commit sex offenses is impaired by the lack of information available about individuals who have pled to, or have been found guilty of, sex offenses; and,

f. That the Tribal Council has determined that the Adam Walsh Act, without Tribal action, will result in an unprecedented expansion of state authority on Tribal lands and that the

Tribe has a compelling interest to protect Tribal sovereignty and Tribal jurisdiction over Tribal lands; and,

g. That the Tribal Council has elected to carry out the requirements of the Adam Walsh Act as a jurisdiction subject to its provisions in accordance with Resolution # 07-0425-206, adopted on April 25, 2007;

h. That the Tribal Council has authorized negotiations with the State of Michigan in an effort to enter into a cooperative agreement with the State under which the Tribe would delegate certain technical aspects of compliance with the Adam Walsh Act to the State, and the Tribe executed such an agreement on June 23, 2009;

i. That nothing in this ordinance shall require the Tribe to provide the State of Michigan with information in excess of the information required by the Adam Walsh Act and Tribal law, other than administrative information necessary for the State of Michigan to maintain the database of sex offenders; and,

j. That the Little River Band of Ottawa Indians hereby establishes its policy to assist the efforts of federal, state, and tribal law enforcement by requiring sex offenders who visit, reside, are employed or are students within the Territorial Jurisdiction of the Little River Band of Ottawa Indians, or are employed by the Tribe, to notify and register with the Little River Band of Ottawa Indians Department of Public Safety.

2.02 Purpose. The purpose of this Ordinance is to implement the federal Sex Offender Registration and Notification Act (SORNA), Section 1 of the United States Public Law 109-248. Little River Band of Ottawa Indians finds that sex offenders present a risk of re-offending and that the efforts of law enforcement to protect the community, to conduct investigations and to apprehend those who commit sex offenses is impaired by the lack of information available about individuals who have pled to, or have been guilty of sex offenses. Accordingly, this Ordinance establishes a registry for offenses, the requirements of registration, and what crimes a person must register for if residing upon, visiting, are employed, or are a student within the Territorial Jurisdiction of the Little River Band of Ottawa Indians or are employed by the Tribe. This Ordinance shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended.

ARTICLE III. DEFINITIONS

The following definitions shall apply to this Ordinance only:

3.01 "*Abscond*" means failure to register and/or to leave, flee or depart quickly and secretly and hide oneself with intent to avoid arrest or prosecution.

3.02 "*BIA*" shall mean the Bureau of Indian Affairs.

3.03 "*CODIS*" means the Combined DNA Index System maintained by the Federal Government.

3.04 *"Consensual"* means involving or based on mutual consent.

3.05 *"Conviction"* or *"Convicted"* means that the sex offender has been or remains subject to penal consequences based on the conviction, however it may be styled. This term also includes convictions of juveniles who are prosecuted as adults.

3.06 "*Department*" means the Little River Band of Ottawa Indians Public Safety Department.

3.07 "*Dru Sjodin National Sex Offender Public Website*" means the public website maintained by the Attorney General of the United States pursuant to section 16920 of title 42 of the United States Code.

3.08 "*Employee*" includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation, including volunteers, interns, elected or appointed Tribal officials, Tribal commission members, Tribal committee members, and board members of any Tribal entity.

3.09 "*Immediate*" and "*immediately*" mean within three (3) days.

3.10 "*Imprisonment*" means incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be broadly interpreted to include, by way of example but not as a limitation, confinement in a state "prison" as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal "jail."

3.11 "*Indian*" means a person who is a member or citizen of a federally recognized Indian Tribe.

3.12 "*Indian Tribe*" means any federally or state recognized tribe.

3.13 "*Internet identifiers*" means all electronic mail addresses, instant message addresses and identifiers, other designations or moniker used for self-identification in internet communications or postings, and designations used for the purpose of routing or self-identification in internet communications or postings.

3.14 "*Jurisdiction*" means the Tribe, any other Indian Tribe that has asserted jurisdiction pursuant to section 127 of SORNA, each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the United States Virgin Islands.

3.15 *"Membership-Based Jurisdiction"* shall mean the inherent jurisdiction the Little River Band of Ottawa Indians shall exercise over its members with regard to any matter (regardless of the location of the actions giving rise to that matter) implicating or affecting internal Tribal relations, or the Tribe's powers of self-government, or the health, safety, morals or welfare of the Tribe or its members. This membership-based jurisdiction shall be exercised to the fullest extent consistent with this Constitution, the sovereign powers of the Tribe, and federal law.

3.16 "*Minor*" means an individual who has not yet attained the age of 18 years.

3.17 "*National Sex Offender Registry*" or "*NSOR*" means the national database maintained by the Attorney General of the United States pursuant to section 16919 of title 42 of the United States Code.

3.18 "*Non-Indian*" means a person who is not a member or citizen of a federally or state recognized Indian Tribe.

3.19 "*Resides*" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives, sleeps, or camps or place where the individual lives, sleeps, or camps for more than 7 days during any given 30 day period.

3.20 "*Sex Offense*" means:

a. A conviction for any of the following Tribal offenses:

1. Article XIX, section 19.01 of the Tribe's Criminal Offenses—Ordinance (Rape Tier III);

2. Article XIX, section 19.02 of the Tribe's Criminal Offenses—Ordinance (Aggravated Rape Tier III);

3. Article XIX, section 19.03 of the Tribe's Criminal Offenses—Ordinance (Rape of Child Tier III);

4. Article XIX, section 19.04 of the Tribe's Criminal Offenses—Ordinance (Aggravated Rape of Child Tier III);

5. Article XIX, section 19.05 of the Tribe's Criminal Offenses—Ordinance (Child Molestation Tier III);

6. Article XIX, section 19.06 of the Tribe's Criminal Offenses—Ordinance (Aggravated Child Molestation Tier III);

7. Article XIX, section 19.07 of the Tribe's Criminal Offenses—Ordinance (Sexual Misconduct with a Child Tier III);

8. Article XIX, section 19.08 of the Tribe's Criminal Offenses—Ordinance (Aggravated Sexual Misconduct with a Child Tier III);

9. Article XIX, section 19.09 of the Tribe's Criminal Offenses—Ordinance (Indecent Exposure Tier I);

10. Article XIX, section 19.10 of the Tribe's Criminal Offenses—Ordinance (Public Sexual Indecency to a Child Tier III);

11. Article XIX, section 19.11 of the Tribe's Criminal Offenses—Ordinance (Prostitution Tier I);

12. Article XIX, section 19.12 of the Tribe's Criminal Offenses—Ordinance (Child Prostitution Tier III);

13. Article XIX, section 19.13 of the Tribe's Criminal Offenses—Ordinance (Sexual Exposure of a Child Tier III);

14. Article XIX, section 19.14 of the Tribe's Criminal Offenses—Ordinance (Sexual Abuse of a Child Tier III);

15. Article XIX, section 19.15 of the Tribe's Criminal Offenses—Ordinance (Visual Representation of a Sexual Act Involving a Child Tier III);

16. Article XIX, section 19.16 of the Tribe's Criminal Offenses—Ordinance (Incest Tier III);

b. Federal offenses. A conviction for any of the following, and any other offense that is later included in the definition of "sex offense" in section 16911(5) of title 42 of the United States Code.

1. 18 USC 1591 (sex trafficking of children);

2. 18 USC 1801 (video voyeurism of a minor);

3. 18 USC 2241 (aggravated sexual abuse by force of threat of force, by other means, or with children);

4. 18 USC 2242 (sexual abuse);

5. 18 USC 2243 (sexual abuse of a minor or ward);

6. 18 USC 2244 (abusive sexual contact);

7. 18 USC 2245 (sexual offenses resulting in the death of the victim);

8. 18 USC 2251 (sexual exploitation of children—producing child pornography);

9. 18 USC 2251A (selling or buying of children with knowledge of or for the purpose of producing child pornography);

10. 18 USC 2252 (material involving the sexual exploitation of a minor—selling or buying child pornography);

11. 18 USC 2252A (material containing child pornography;

12. 18 USC 2252B (misleading domain names on the internet with the intent to deceive a person into viewing obscene material);

13. 18 USC 2252C (misleading words or digital images on the internet with the intent to deceive a person into viewing obscene material);

14. 18 USC 2260 (production of sexually explicit depictions of a minor for import into the United States);

15. 18 USC 2421 (transportation of a minor for illegal sexual activity);

16. 18 USC 2422 (coercion and enticement of a minor for illegal sexual activity);

17. 18 USC 2423 (transportation of minors with intent to engage in criminal sexual activity or engaging in illicit sexual conduct in a foreign place);

18. 18 USC 2424 (failure to file factual statement about an alien individual who is kept for the purpose of prostitution);

19. 18 USC 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 conviction for a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 USC 951 note).

e. Juvenile offenses or adjudications. A conviction for a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 USC 2241) and committed by a minor who is 14 years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.

f. Jurisdiction offenses. Any conviction committed in a Jurisdiction, including the Tribe, that involves:

1. Any type or degree of genital, oral, or anal penetration;

2. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing;

3. Kidnapping of a minor;

4. False imprisonment of a minor;

5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct;

6. Use of a minor in a sexual performance;

7. Solicitation of a minor to practice prostitution;

8. Possession, production, or distribution of child pornography;

9. Criminal sexual conduct that involves physical contact with a minor or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense;

10. Any conduct that by its nature is a sex offense against a minor; or

11. Any offense similar to those defined in sections 1591, 1801, 2241, 2242, 2244, 2422(b), and 2423(a) of title 18 of the United States Code.

g. Attempts and conspiracies. Any attempt or conspiracy of any of the crimes listed in this definition.

3.21 "*Sex Offender*" means a person convicted of a sex offense.

3.22 "*Sex Offender Registry*" means the registry of sex offenders, and the notification program, maintained by the Little River Band of Ottawa Indians and the State of Michigan pursuant to an agreement executed June 23, 2009.

3.23 "*Sexual Act*" means:

a. 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;

b. Contact between the mouth and penis, the mouth and the vulva, or the mouth and anus;

c. 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, degraded, or arouse or gratify the sexual desire of any person; or

d. 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 desires of any person.

3.24 "*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.

3.25 "*SORNA*" means the Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248, being 42 USC 16911 *et. seq.*, as amended.

3.26 "*Student*" means a person who enrolls in or attends an educational institution within the Territorial Jurisdiction of the Little River Band of Ottawa Indians, including a secondary school, trade or professional school, or an institution of higher education, or is an intern or extern.

3.27 "*Temporary lodging*" means any home, place, or location where a sex offender lives, sleeps, or camps while he or she is away from his or her residence for 7 consecutive days or more.

3.28 *"Territorial Jurisdiction."* The territorial jurisdiction of the Little River Band of Ottawa Indians shall encompass all lands which are now or hereinafter owned by or reserved for the Tribe or for Tribal members, including but not limited to the Manistee Reservation in Manistee County (Michigan), and Custer and Eden Townships in Mason County (Michigan), or are held in trust for the Tribe or any member of the Tribe by the United States of America. The Tribe's territorial jurisdiction shall be exercised to the fullest extent consistent with this Constitution, the sovereign powers of the Tribe, and federal law.

3.29 "*Tribal Court*" means the Little River Band of Ottawa Indians Tribal Court.

3.30 "*Tribal Member*" means a person who is an enrolled member of the Little River Band of Ottawa Indians.

3.31 "*Tribe*" means the Little River Band of Ottawa Indians and any Tribal entity.

3.32 "*Visitor*" means any person within the Territorial Jurisdiction of the Little River Band of Ottawa Indians who is not a resident.

ARTICLE IV. OFFENSES THAT REQUIRE A PERSON TO REGISTER

4.01 Covered Offenses. Individuals who reside, are students, or are employed within the Territorial Jurisdiction of the Little River Band of Ottawa Indians, as well as individuals who are employed by the Tribe, shall immediately register under this Ordinance with the Tribe if they have been convicted of a Sex Offense, or an attempt or conspiracy to commit a Sex Offense.

4.02 Exceptions. Individuals convicted of the following Sex Offenses need not register:

a. Offenses involving consensual sexual conduct. A conviction for an offense involving consensual sexual conduct does not require registration under 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 years old and the offender was not more than four years older than the victim.

ARTICLE V. TIERED OFFENSES

Sex offenders who must register under this Ordinance are subject to different registration requirements, depending upon the severity of the crime for which a sex offender is convicted.

5.01 Tier 1 Offenses include the following:

a. 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. Any offense for which a person has been convicted by any Jurisdiction that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.

c. All first convictions of Sex Offenses under the Tribal Criminal Code.

d. A conviction for any of the following:

1. 18 USC 1801 (video voyeurism of a minor);

2. 18 USC 2252 (receipt or possession of child pornography);

3. 18 USC 2252A (receipt or possession of child pornography);

4. 18 USC 2252B (misleading domain names on the internet);

5. 18 USC 2252C (misleading words or digital images on the internet);

6. 18 USC 2422(a) (coercion to engage in prostitution);

7. 18 USC 2423(b) (travel with the intent to engage in illicit conduct);

8. 18 USC 2423(c) (engaging in illicit conduct in foreign places);

9. 18 USC 2424 (failure to file factual statement about an alien individual);

10. 18 USC 2425 (transmitting information about a minor to further criminal sexual conduct).

e. A conviction for any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 USC 951 note) that is similar to the convictions for offenses listed in Section 5.01 a, b, and c of this Ordinance.

5.02 Tier 2 Offenses include the following:

a. Unless it constitutes a Tier 3 Offense, any conviction for a sex offense that is not the first sex offense for which a person has been convicted and that is punishable by more than one year in jail.

b. A conviction for any sex offense against a minor, 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 of age;

4. Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involved 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. A conviction for any of the following:

1. 18 USC 1591 (sex trafficking by force, fraud, or coercion);

2. 18 USC 2243 (sexual abuse of a minor or ward);

3. 18 USC 2244 (abusive sexual contact, where the victim is 13 years of age or older);

4. 18 USC 2251 (sexual exploitation of children);

5. 18 USC 2251A (selling or buying of children);

6. 18 USC 2252 (material involving the sexual exploitation of a minor);

7. 18 USC 2252A (production or distribution of material containing child pornography);

8. 18 USC 2260 (production of sexually explicit depictions of a minor for import into the United States);

9. 18 USC 2421 (transportation of a minor for illegal sexual activity);

10. 18 USC 2422(b) (coercing a minor to engage in prostitution); or,

11. 18 USC 2423(a) (transporting a minor to engage in illicit conduct).

d. A conviction for any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 USC 951 note) that is similar to those offenses outlined in Section 5.02 a, b, and c of this Ordinance.

5.03 Tier 3 Offenses include the following:

a. A conviction for any sex offense that is punishable by more than one year in jail where the offender has a least one prior conviction for a Tier 2 Offense as defined by this Ordinance.

b. A conviction for any sex offense 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. A conviction for any of the following:

1. 18 USC 2241 (aggravated sexual abuse);

2. 19 USC 2242 (sexual abuse); or,

3. 18 USC 2244 if the victim is 12 years of age or younger (abusive sexual contact).

d. A conviction for any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 USC 951 note) that is similar to those offenses outlined in Section 5.03 a and b of this Ordinance.

e. A second conviction of a Sex Offense under the Tribal Criminal Code.

ARTICLE VI. REGISTRATION

6.01 When required. A sex offender must register with the Tribe if:

a. The sex offender was convicted by the Tribal Court of a sex offense regardless of the sex offender's actual or intended residency.

b. If the sex offender is incarcerated by the Tribe while completing any sentence for a sex offense, regardless of whether it is the same Jurisdiction as the Jurisdiction of conviction or residence.

c. If the sex offender resides within the Territorial Jurisdiction of the Little River Band of Ottawa Indians.

d. If the sex offender is employed by the Tribe in any capacity.

e. If the sex offender is employed within the Territorial Jurisdiction of the Little River Band of Ottawa Indians, regardless of the employer.

f. If the sex offender is a student in any capacity within the Territorial Jurisdiction of the Little River Band of Ottawa Indians.

g. If the sex offender is a Tribal Member, regardless of whether the sex offender resides within the Territorial Jurisdiction of the Little River Band of Ottawa Indians.

6.02 Timing. A sex offender required to register shall do so in the following timeframe:

a. If convicted by the Tribe for a sex offense and incarcerated, the sex offender must register before being released from imprisonment.

b. If convicted by the Tribe for a sex offenses and not incarcerated, the sex offender must register immediately after sentencing for the sex offense.

c. If the sex offender establishes a residence within the Territorial Jurisdiction of the Little River Band of Ottawa Indians, the sex offender must register immediately.

d. If the sex offender becomes employed by the Tribe in any capacity or commences employment within the Territorial Jurisdiction of the Little River Band of Ottawa Indians, the sex offender must register immediately.

e. If the sex offender becomes a student within the Territorial Jurisdiction of the Little River Band of Ottawa Indians, the sex offender must register immediately.

f. If the sex offender is a Tribal Member, the sex offender must register immediately, regardless of the Tribal Member's place of residence or conviction.

6.03 Keeping registration current. All sex offenders required to register under this Ordinance shall immediately appear in person to update any changes to their name, residence, employment, student status, or termination of residence. In addition, the sex offender must keep his or her registration current in the following manner:

a. All sex offenders required to register under this Ordinance shall immediately inform the Tribe of any changes to their temporary lodging information (as described in Section 10.21 of this Ordinance), vehicle information, internet identifiers, or telephone numbers. In the

event of a change in temporary lodging, the sex offender and the Tribe shall immediately notify the Jurisdiction in which the sex offender will be temporarily staying.

b. If the sex offender intends to travel or otherwise relocate outside of the United States, the sex offender must inform the Tribe at least 21 days in advance of such travel. The Tribe shall immediately notify any other Jurisdiction where the sex offender is registered or is required to register and immediately notify the United States Marshals Service and update NSOR.

c. A sex offender who is a student within the Territorial Jurisdiction of the Little River Band of Ottawa Indians that changes schools, or otherwise terminates schooling, shall immediately and in person update that information. The Tribe 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. A sex offender who is employed by the Tribe or is otherwise employed within the Territorial Jurisdiction of the Little River Band of Ottawa Indians that changes employment, or otherwise terminates employment, shall immediately and in person update that information. The Tribe 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.

6.04 Tribal Duties. When a sex offender initially registers or changes his or her information, the Tribe shall do the following:

a. When a sex offender initially registers with the Tribe, the Tribe shall inform the sex offender of his or her duties under SORNA and shall require the sex offender to read and sign an acknowledgement form that states that the duty to register has been explained and that the sex offender understands the registration obligations under SORNA. The Tribe shall ensure that the sex offender is registered at this time and that such information is submitted to the Sex Offender Registry.

b. When a sex offender changes their information, the Tribe shall immediately notify:

1. All Jurisdictions where a sex offender intends to reside, work, or become a student;

2. Any Jurisdiction where the sex offender is either registered or required to register; and

c. Specifically with respect to information relating to a sex offender's intent to commence residence, student status, or employment outside of the United States, any Jurisdiction where the sex offender is either registered or required to register, and the United States Marshals Service. The Tribe shall also ensure this information is immediately updated on NSOR.

ARTICLE VII. FREQUENCY, DURATION, AND REDUCTION OF REGISTRATIONS.

7.01 Frequency. A sex offender who is required to register under this Ordinance shall, at a minimum, appear in person 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 sex offense or from the date of sentencing for a sex offender who is not incarcerated for the sex 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 sex offense.

c. For Tier 3 offenders, once every 90 days for the rest of their lives.

7.02 Reduction in Registration Periods. A sex offender's registration and notification requirements shall be terminated only if the following conditions are met.

a. Tier 1 Sex Offender.

1. If a Tier 1 sex offender maintains a clean record for 10 years, then the sex offender's registration requirements shall be terminated. A clean record includes the following:

(a) Not being convicted of any offense for which imprisonment for more than 1 year may be imposed;

(b) Not being convicted of any sex offense;

(c) Successfully completing any periods of supervised release, probation, and parole; and

(d) Successfully completing of an appropriate sex offender treatment program certified by a Jurisdiction or by the Attorney General.

b. Tier 3 Offender.

1. If a Tier 3 sex offender is required to register based on a delinquency adjudication for an offense that required Tier 3 registration maintains a clean record for 25 years, then the sex offender's registration and notification requirements shall be terminated. A clean record includes the following:

(a) Not being convicted of any offense for which imprisonment for more than 1 year may be imposed;

(b) Not being convicted of any sex offense;

(c) Successfully completing any periods of supervised release, probation, and parole; and

(d) Successfully completing of an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General.

ARTICLE VIII. RETROACTIVE REGISTRATION

8.01 The Tribe shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the requirements of this Ordinance:

a. Sex offenders incarcerated or under the supervision of the Tribe, whether for a covered sex offense or other crime; and,

b. Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the Tribe's laws; and,

c. Sex offenders reentering the justice system due to conviction for any felony.

8.02 Timing. The Tribe shall ensure the registration of the sex offenders referenced in this Article within the following timeframe to be calculated from the date of this Ordinance's effective date:

a. For Tier 1 sex offenders, 1 year;

b. For Tier 2 sex offenders, 180 days; and,

c. For Tier 3 sex offenders, 90 days.

ARTICLE IX. FAILURE TO APPEAR OR FAILURE TO REGISTER

9.01 Failure to appear. In the event a sex offender fails to register as required by this Ordinance, the Tribe shall immediately inform the Jurisdiction that provided notification that the sex offender was to commence residency, employment, or become a student within the Territorial Jurisdiction of the Little River Band of Ottawa Indians that the sex offender failed to appear for registration.

9.02 Absconded sex offenders. If the Tribe receives information that a sex offender has absconded, the Tribe shall make an effort to determine if the sex offender has actually absconded.

a. In the event the Tribe cannot determine if the sex offender absconded, the Tribe shall ensure that all appropriate law enforcement agencies are notified.

b. If the information indicating the possible absconding came through notice from another jurisdiction, they shall be informed that the sex offender has failed to appear and register.

c. If an absconded sex offender cannot be located, then the Tribe shall take the following steps:

1. Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located;

2. Notify the United States Marshals Service;

3. Seek a warrant for the sex offender's arrest. The United States Marshals Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest;

4. Update the NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located; and,

5. Enter the sex offender into the National Crime Information Center Wanted Person File.

9.03 Failure to register. In the event a sex offender who is required to register due to their residence, employment, or status as a student fails to do so or otherwise violates a registration requirement of this code, the Tribe shall take all appropriate follow-up measures including those outlined in Section 9.02 of this Ordinance. The Tribe shall first make an effort to determine if the sex offender actually resides, is actually employed by the Tribe, or is employed or a student within the Territorial Jurisdiction of the Little River Band of Ottawa Indians.

ARTICLE X. REQUIRED INFORMATION

10.01 A sex offender required to register under this Ordinance shall provide all of the information detailed in this Article to the Tribe. All information obtained by the Tribe pursuant to this Ordinance shall be maintained in a digitized format, and the Tribe shall maintain a registry in an electronic database in a form capable of electronic transmission.

10.02 Name. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, the following information related to the sex offender's name:

a. The sex offender's full primary given name;

b. All nicknames, aliases, and pseudonyms used by the sex offender, regardless of the context in which it is used; and,

c. 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.

10.03 Information about the sex offense. The Tribe shall obtain the text of each provision of law defining the sexual offense for which the sex offender is registered under this Ordinance.

10.04 Criminal history. The Tribe shall obtain, and a sex offender required to register under this Ordinance 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.

10.05 Date of birth. The Tribe shall obtain, and a sex offender required to register under this Ordinance 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.

10.06 DNA sample. If the sex offender's DNA is not already contained in the CODIS, the Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, a sample of the sex offender's DNA. Any DNA sample obtained shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.

10.07 Driver's license. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any Jurisdiction.

10.08 Identification Cards. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.

10.09 Passports. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, a photocopy of any passports used by the sex offender.

10.10 Immigration documents. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, a photocopy of any and all immigration documents.

10.11 Employment information. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, the following information related to the sex offender's employment, to include all places where the sex offender is employed:

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.

10.12 Finger and palm prints. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, both finger prints and palm prints of the sex offender in a digitized format. The Tribe shall submit the fingerprints to the Integrated Automated Fingerprint Identification System and the palm prints to the FBI Central Database (Next Generation Identification Program). In the event that a sex offender has missing or deformed fingers or palms, the Tribe shall make every attempt to record the available fingerprint and/or palm areas and shall note any absence or deformity in the relevant fingerprint or palm block (e.g., amputated, missing at birth, crippled, etc.).

10.13 Internet names. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, all information related to the sex offender's internet identifiers.

10.14 Phone numbers. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, the following information related to the sex offender's telephone numbers:

a. All telephone numbers and any other designations used by the sex offender for purposes of routing or self-identification in telephonic communications;

b. All land line telephone numbers commonly used by the sex offender; and,

c. All cellular telephone numbers commonly used by the sex offender.

10.15 Photograph. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, a current photograph of the sex offender. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected:

a. Every 90 days for Tier 3 sex offenders;

b. Every 180 days for Tier 2 sex offenders; and,

c. Every year for Tier 1 sex offenders.

10.16 Physical description. The Tribe shall obtain, and a sex offender required to register under this Ordinance 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.

10.17 Professional licensing information. The Tribe shall obtain, and a sex offender required to register under this Ordinance 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.

10.18 Residence address. The Tribe shall obtain, and a sex offender required to register under this Ordinance 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.

10.19 School. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, the following information related to the sex offender's school:

a. The address of each school where the sex offender is currently a student;

b. The address of each school where the sex offender will be a student;

c. The name of each school where the sex offender is currently a student; and,

d. The name of each school where the sex offender will be a student.

10.20 Social security number. The Tribe shall obtain, and a sex offender required to register under this Ordinance 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.

10.21 Temporary lodging information. The Tribe shall obtain, and a sex offender required to register under this Ordinance shall provide, the following information when the sex offender will be absent from the sex offender's residence for 7 days or more:

a. Identifying information of the temporary lodging locations, including addresses and names; and,

b. The dates the sex offender will be staying at each temporary lodging location.

10.22 Vehicle information. The Tribe shall obtain, and a sex offender required to register under this Ordinance 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.

10.23 In person appearance requirements. At each in person verification, as explained in Article 7 of this Ordinance, the sex offender shall:

a. Permit the Tribe to take a photograph of the sex offender; and,

b. Review existing information for accuracy and update the information as needed.

10.24 Notification of Jurisdictions. If, during an in-person verification, any new information or change in information is obtained by the Tribe, the Tribe shall immediately notify all other Jurisdictions in which the sex offender is required to register of the information or change in information.

10.25 In order to ensure that this provision is complied with by individuals who are employed within the Territorial Jurisdiction of the Little River Band of Ottawa Indians, each Tribal entity shall develop appropriate procedures that notify all contractors that the Tribe has adopted a Tribal Sex Offender Registration and Notification Ordinance and that each contractor must notify its employees that they may be required to register under this Ordinance, notwithstanding whether such employees are registered in another jurisdiction.

ARTICLE XI. PUBLIC SEX OFFENDER REGISTRY WEBSITE

11.01 Website. The Tribe shall use and maintain a public sex offender registry website.

11.02 Links. The registry website shall include links to sex offender safety and education resources.

11.03 Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

11.04 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.

11.05 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.

11.06 Dru Sjodin National Sex Offender Public Website. Any website utilized by the Tribe shall include 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.

11.07 Information available to public. The following information shall be made available to the public on the sex offender registry website:

a. Notice that a sex offender is in violation of their registration requirements or cannot be located if the sex offender has absconded;

b. All sex offenses for which the sex offender has been convicted;

c. The sex offense or offenses for which the offender is currently registered;

d. The address of the sex offender's employer or employers;

e. The name of the sex offender, including all aliases;

f. A current photograph of the sex offender;

g. A physical description of the sex offender;

h. The residential address and, if relevant, a description of a habitual residence of the sex offender;

i. All addresses of schools attended by the sex offender;

j. The residential address and, if relevant, a description of a habitual residence of the sex offender;

k. All addresses of schools attended by the sex offender; and,

l. Vehicle license plate numbers, along with a description of any vehicle owned or operated by the sex offender.

11.08 Prohibited information. The following information shall not be available to the public on the sex offender registry website:

a. Any arrest that did not result in conviction;

b. The sex offender's social security number;

c. Any travel and immigration documents;

d. The identity of any victim;

e. Internet identifiers, as defined in 42 USC 16911;

f. If a sex offender is under a witness protection program, the Tribe 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.

ARTICLE XII. COMMUNITY NOTIFICATION

12.01 Law enforcement notification. Whenever a sex offender registers or updates their information under this Ordinance, the Tribe shall:

a. Comply with any guidance provided by the SMART Office on the monitoring and/or utilizing of the SORNA Exchange Portal for inter-jurisdictional change of residence, employment, or student status.

b. Immediately notify the FBI or other federal agency as designated by the Attorney General in order that the information may be updated on NSOR or other relevant databases;

c. 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, the following agencies, departments, or programs, who shall be responsible for notifying individuals who may come into contact with the offender:

1. Office of the Tribal Prosecutor;
2. Department of Public Safety;
3. Department of Family Services;
4. The Binojeeuk Commission;
5. Child Protection Team;
6. Housing Department;
7. Gaming Commission;
8. Peacemaking and Probation Department;
9. Education Department;
10. Historic Preservation Department; and
11. Natural Resources Department

d. Immediately notify all Jurisdictions where the sex offender is registered due to the sex offender's residency, employment, or status as a student;

e. 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 199, (42 USC 5119a) when a sex offender registers or updates registration.

12.02 Community notification. The Tribe shall ensure that there is an automated community notification process in place that ensures the following:

a. Upon a sex offender's registration or update of information under this Ordinance, the website referenced in this Ordinance is immediately updated;

b. The registry may have a function that enables the general public to request an electronic mail notice that will notify them when a sex offender commences residence, employment, or becomes a student within the Territorial Jurisdiction of the Little River Band of Ottawa Indians, within a specified zip code, or within a certain geographic radius. The electronic mail notice shall include the sex offender's identity so that the public can access the public registry for the new information.

c. The Tribe preserves the right to have the notification system automatically notify Tribal Members, or any portion thereof, upon a sex offender's registration or update of information under this Ordinance.

ARTICLE XIII. NOTIFICATION OF PRESENCE

13.01 If a sex offender is not otherwise registered with the Tribe and enters into the Territorial Jurisdiction of the Little River Band of Ottawa Indians, the sex offender must notify the Tribe within 24 hours of his or her presence in the Territorial Jurisdiction.

13.02 The Tribal Public Safety Department shall promulgate rules to implement this Article.

ARTICLE XIV. CRIMINAL AND CIVIL SANCTIONS

14.01 Each violation of a provision of this Ordinance by a sex offender who is an Indian shall be considered a crime and subject to a period of incarceration of one (1) year and a fine of five thousand dollars ($5,000) or both.

14.02 Each violation of a provision of this Ordinance 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, and/or civil contempt.

14.03 A person is guilty of an offense if:

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 Ordinance;

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 Ordinance; or

c. Provides information to law enforcement agency regarding a sex offender which the person knows to be false.

ARTICLE XV. EXCLUSION

15.01 Any non-Tribal Member sex offender within the boundaries of the Territorial Jurisdiction may be excluded from the Territorial Jurisdiction of the Little River Band of Ottawa Indians pursuant to the Ogema's authority under the Tribe's Constitution, art. V., sec. 5. The exclusion order shall contain the following exemptions:

a. To answer a summons or subpoena by the Tribal Court.

b. To be a defendant before the Tribal Court.

15.02 Any non-Tribal Member sex offender excluded from the Territorial Jurisdiction of the Little River Band of Ottawa Indians who must return pursuant to an exception must notify the Tribe no less than one (1) business day prior to their return to tribal lands.

15.03 Any Tribal Member who has been convicted of a Tier III sex offense may be excluded from residing within the Territorial Jurisdiction of the Little River Band of Ottawa Indians pursuant to the Ogema's authority under the Tribe's Constitution, art. V, sec. 5 and may be excluded from Territorial Jurisdiction of the Little River Band of Ottawa Indians pursuant to this Ordinance. The exclusion order shall contain the following exemptions:

a. To answer a summons or subpoena by the Tribal Court.

b. To be a defendant before the Tribal Court.

c. To attend funerals of immediate family members.

d. To vote.

e. To access other direct services provided to Tribal Members.

15.04 Any Tribal Member sex offender excluded from the Territorial Jurisdiction of the Little River Band of Ottawa Indians who must return pursuant to an enumerated exception must notify the Tribe no less than one (1) day prior to their return to tribal lands.

ARTICLE XVI. REGULATIONS

16.01 Any regulations or policies or procedures issued consistent with this Ordinance shall require approval by the Tribal Council.

ARTICLE XVII. SOVEREIGN IMMUNITY

17.01 No waiver. Nothing in this Ordinance shall be construed as a waiver of sovereign immunity for the Tribe, its departments, agencies, employees, or agents.

ARTICLE XVIII. SAVINGS CLAUSE; CONFLICTS

18.01 In the event that any section, subsection or phrase of this Ordinance is found by a court of competent jurisdiction to violate the Constitution or laws of the Tribe, such part shall be considered to stand alone and be deleted from this Ordinance, the entirety of the balance of the Statute to remain in full and binding force and effect so long as the overall intent of the Ordinance remains intact.

18.02 If any provision of this Ordinance conflicts with another Tribal Ordinance, the provisions of this Ordinance shall govern.

ARTICLE XIX. CHILD SAFETY ZONE.

Any individual required to register as a sex offender in any jurisdiction shall maintain a minimum of 100 feet distance (safety zone) from any event or activity on Tribal property where children under the age of eighteen (18) may be or are presumed to be present and shall not be present at the Tribal Gathering Grounds at any time.

ARTICLE XX. EFFECTIVE DATE

This Ordinance shall be effective upon the date identified in the Tribal Council Resolution authorizing final approval of this Ordinance.

CERTIFICATION

I, Sandy Mezeske, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Sex Offender Registration Act – Ordinance authorized for submission to the SMART Office on February 11, 2015, by Resolution #15-0211-028.

Sandy Mezeske

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