Sisseton-Wahpeton Oyate
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SISSETON-WAHPETON OYATE OF THE LAKE TRAVERSE RESERVATION

CHAPTER 75

THE SISSETON-WAHPETON OYATE SEX OFFENDER NOTIFICATION AND REGISTRATION CODE

THIS CODE IS DEDICATED TO ALL NATIVE AMERICAN VICTIMS WHO HAVE LOST THEIR LIVES TO SEX OFFENDERS AND VIOLENT CRIMINALS, ESPECIALLY THOSE WHO DO NOT APPEAR IN THE NATIONAL NEWS.

OYATE KIN ANAUNKIKSINPI HEUN WOOPEG UNKAPGAPI
(We make this law to protect our People.)

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SISSETON-WAHPETON OYATE
OF THE
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Part 1
General Matters

75-01-01 Title

This Code shall be known as the Sisseton-Wahpeton Oyate Sex Offender Notification and Registration Code for the Lake Traverse Reservation.

75-01-02 Legal Authority

This code is enacted pursuant to the inherent sovereign tribal powers of the Sisseton-Wahpeton Oyate and expressly delegated to the Tribal Council in Article VII of the Tribe's Constitution, which authorizes the Tribal Council to make rules, manage, promulgate and enforce Codes providing for the health, safety, economic well-being and general welfare of the Tribe and its members and residents; to maintain law and order on the Reservation; to administer justice on the Reservation; to regulate Tribal committees, boards, agencies and employees; and to delegate to Tribal committees, boards, agencies, and employees, the foregoing powers, subject to review by the Tribal Council.

The jurisdiction of the Sisseton-Wahpeton Oyate shall extend to lands lying in the territory within the original confines of the Lake Traverse Reservation as described in Article III of the Treaty of February 19, 1867 15 Stat. 505, and those lands subsequently acquired by the Sisseton-Wahpeton Oyate. The Sisseton-Wahpeton Oyate reserves the right to exceed requirements set in certain federal laws for the greatest protection of tribal members.

75-01-03 Purpose

The Sisseton-Wahpeton Oyate Tribal Council recognizes the need to protect tribal members, and all those who live, work, visit, or attend school within the jurisdiction of the Lake Traverse Reservation or any land owned or operated by the Sisseton-Wahpeton Oyate ("SWO"), wherever located.

75-01-04 Need

Violent crime in Indian Country is more than twice that of the national average. On some reservations it is twenty times the national average. An astounding thirty percent of Indian and Alaska Native women will be raped in their lifetimes. Eighty-six percent of the perpetrators of these crimes are non-Indian. Tribal nations are disproportionately affected by violent crime and sex offenses

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committed by both Indian and non-Indian perpetrators. Consequently, the conduct and presence of convicted sex offenders in Indian Country threatens the political integrity, economic security, health and welfare of tribal nations even to the point of imperiling the subsistence of tribal communities.

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Part 2
Definitions and Covered Offenses

75-02-01 Definitions

A. "At Risk" means that any person may be exposed to a risk of being victimized by a sex offender.

B. "CODIS" means the Combined DNA Index System.

C. "Commonly Used Vehicle" means any vehicle not registered to the individual offender that is commonly used for transportation for 10 or more occurrences within 365 days.

D. "Conviction or Convicted." An adult sex offender is "convicted" for the purposes of this code if the sex offender has been subject to penal consequences based on the conviction, however it may be designated. This excludes suspended imposition of sentence cases, when there is no conviction. This shall include but not be limited to convictions in Tribal, Federal, Military, Local, State, and Foreign courts.

E. "Registering Official" means, the Sisseton-Wahpeton Oyate Sex Offender Registry Office (SWO SORO) Director, Sisseton Wahpeton Law Enforcement (SWLE) official or a designated SWO SORO staff member.

F. "DNA" means Deoxyribonucleic acid.

G. "Employee" for registration purposes, includes but is not limited to, an individual who is self-employed or works for any other entity, whether compensated or not. This definition includes, but is not limited to volunteers, interns, externs, and apprentices, all employees of Tribal Government and any tribally owned Properties and Businesses. Employee also includes, but is not limited to, an individual conducting business that requires presence on the Lake Traverse Reservation or upon any land or businesses owned or operated by the SWO or any individual, wherever located, whether compensated or not. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.

H. "Immediate" or "Immediately" means within 3 calendar days unless otherwise indicated within this code.

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I. "Incarceration or Imprisonment" refers to incarceration pursuant to a conviction regardless of the nature of the institution in which the offender serves a sentence. The term is to be interpreted broadly to include, for example, confinement in tribal jail as well as state prison or local jail.

J. "INTERPOL" means the International Criminal Police Organization.

K. "Jurisdiction" refers to the Lake Traverse Reservation as described in 75-01-02, any other Indian Tribes, and the 50 states, US military tribunals, foreign convictions, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the United States Virgin Islands.

L. "Lake Traverse Reservation" as described in 75-01-02.

M. "Mandatory Appearance Meetings" means a sex offender is required to appear in person at the SWO SORO for the purposes of verification and keeping their registration current in accordance with their assigned category.

N. "Minor" means an individual who has not attained the age of 18 years, or has not been emancipated.

O. "School Monitor" refers to an adult individual(s) selected by a School to monitor Registered Sex Offenders movement on school premises. This individual will also serve as a contact person with the SWO SORO.

P. "NCIC" means National Crime Information Center.

Q. "NSOR" means National Sex Offender Registry.

R. "Resident or Resides" includes all residents and residences of the Lake Traverse Reservation and includes, but is not limited to, all SWO owned or operated residences and lands regardless of location, including lodging such as vacation homes, hunting cabins, campsites and any other places a visitor or resident habitually lives.

S. "School" means any Tribal School, Tribal Day Care, or Tribal College of the Lake Traverse Reservation.

T. Where an offender "Commonly or Habitually Sleeps or Visits" with respect to an individual, the location of the individual's home or other place where the individual lives or sleeps, this includes all sex offenders who visit the Lake Traverse Reservation for a period of 8 hours or more or sleeps 10 or more of 365 days.

U. "Sexual Act":
   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.

V. "Sexual Contact" shall include any sexual touching of or contact with an individual as described by SWOCL 24-01-43 (J): "any touching, not amounting to rape, whether or not through clothing or other covering, of the breasts o[f] a female or the genitals or anus of any person, excluding any contact for medical or healing purposes." For the purposes of this Code contact for medical and healing purposes requires consent.

W. "Sex Offender" or "Covered Sex Offender" shall include but not be limited to any person who has pled guilty to, or been found guilty of any sex offense under any Tribal, Federal, Military, Local, State, or Foreign law.

X. "Sex Offense" shall include those offenses described in this code and any other SWOCL. When recognizing outside jurisdictions for the purposes of registration, sex offenses shall include other sex related crimes as set forth in existing Tribal, Federal, Military, Local, State, or Foreign law.

Y. "Sexually Violent Offense" for purposes of the classification of sex offenses, a sexually violent offense shall include any nonconsensual sexual assault crimes involving penetration, rape, sodomy or similar acts. These offenses shall also include sexual acts perpetrated by violence, threat of serious violence or by rendering unconscious or involuntarily drugging a victim.

Z. "SWLE" means the Sisseton-Wahpeton Law Enforcement.

AA. "SWO" means the Sisseton-Wahpeton Oyate.

BB. "Sisseton-Wahpeton Oyate Sex Offender Public Website or SWO Sex Offender Public Website" means the public website maintained by the SWO SORO.

CC. "SWOCL" means the Sisseton-Wahpeton Oyate Codes of Law.

DD. "SWO Tribal Court" or "Tribal Court" means the Tribal Court of the Sisseton-Wahpeton Oyate.

EE. "Tribal Jail" means the detention facility or designated facility of the Sisseton-Wahpeton Oyate.

FF. "Tribal Sex Offender Register Bulletin Boards" means all public bulletin boards; including but not limited to the Central Government administration building and District Centers.

GG. Tribal "Sex Offender Registry Office" or "SORO" means the principle office of the Sisseton-Wahpeton Oyate that is responsible for sex offender registration and notification.

HH. "Student" is a person who enrolls in or attends either a tribal, private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.

75-02-02 Covered Offenses

A. Covered sex offenders who reside, are employed, attend school, or visits for a period of 8 hours or more that have been convicted of the following offense's are subject to the requirements of this code.

B. The SWO SORO will determine which category (one, two or three) the sex offender will be placed, according to the provisions of this Code. Until such time, as the determination is made the covered offender will be listed as a Category 3 offender. (75-03-03) Category 1 offenders may apply for a reduction in the reporting requirements, upon recommendation by the SWO Sex Offender Reduction Committee and approval by the SWO Tribal Court Judge.

C. Until such time the covered sex offender has provided all the documentation required by the SWO SORO, the covered offender will be listed as a Category 3 offender. Once the SWO SORO has received the documentation, the SWO SORO will make the determination for which category the sex offender will be placed.

1. When a Registered Sex Offender's crime is committed in a jurisdiction other than the Sisseton-Wahpeton Oyate, and does not immediately conform to the crimes listed in this Code and any other SWOCL, the Registered Sex Offender will be placed as a Category 3 offender. If the Registered Sex Offender believes their crime does not belong in Category 3, it is the Registered Sex Offender's responsibility to the petition the Sisseton-Wahpeton Oyate Tribal Court for placement in another Category.

The Tribal Judge will then review the statute of the outside jurisdiction to determine the Registered Sex Offender's placement. Until such a determination is made, the Registered Sex Offender will be placed as a Category 3 and are required to follow all requirements in this Code as a Category 3 offender.

D. Attempts and Conspiracies. Any attempt or conspiracy to commit any sex offense.

E. Tribal Offense. A conviction for any of the following; and any other offense found in the Sisseton-Wahpeton Oyate Penal Code, any other SWOCL, or any other Tribal Court Offenses recognized by the Sisseton-Wahpeton Oyate Tribal Court, including offenses committed on other reservations:

1. 24-04-01 Abduction (Victim under 18),
2. 24-04-02 False Imprisonment (Victim under 18),
3. 24-05-03 Statutory Rape,
4. 24-05-04 Rape,
5. 24-05-05 Prostitution,
6. 24-05-07 Human Trafficking
7. 24-06-05 Assault with attempt to commit rape,
8. 24-06-06 Sexual Assault of a Child,
9. 24-06-07 Sexual Assault,
10. 24-06-08 Sexual Exploitation of a Child,
11. 24-12-04 Unlawful removal of a child,
12. 38-02-01 Cruelty to or abuse of a child (Sex offenses),
13. 38-03-05 Sexual abuse of a child,
14. 48-02-03 Abuse of Disabled Adult (Sexual Abuse),
15. 52-01-04 Domestic Violence (Causing involuntary sexual activity),
16. 56-02-02 Elderly Protection (Sex Offenses).

This list is subject to amendment or changes.

F. Federal Offenses including but not limited to any of the following: Federal Offenses such as, but not limited to sex trafficking of children, aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, abusive sexual contact, offenses resulting in death, sexual exploitation of children, selling or buying of children, material involving the sexual exploitation of a minor, material containing child pornography, misleading domain names on the internet, misleading words or digital images on the internet, production of sexually explicit depictions of a minor for import into the United States, transportation of a minor for illegal sexual activity, coercion and enticement of a minor for illegal sexual activity, transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, engaging in illicit sex conduct in foreign places, failure to file factual

statement about an alien individual, and transmitting information about a minor to further criminal sexual conduct.

G. "Foreign Convictions" is the conviction of a sex offense(s) subject to penal consequences based upon an order from a criminal or delinquency court obtained from outside the United States.

H. "Juvenile Offenses or Adjudications" means any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than aggravated sexual abuse 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 is a Category 3 offender.

I. "Jurisdiction Offenses" means any sex offense committed in any jurisdiction, including this tribe, that involves:

1. Any type or degree of genital, oral, or anal penetration,
2. Any sexual touching of or contact with a person's body, either directly or through the clothing,
3. Non-parental kidnapping of a minor,
4. Non-parental false imprisonment of a minor,
5. Use of a minor in a sexual performance,
6. 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,
7. Solicitation of a minor to engage in prostitution,
8. Video voyeurism of a minor as described in 18 U.S.C. §1801,
9. Possession, production, or distribution of child pornography,
10. 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,
11. Any conduct that by its nature is a sex offense against a minor, and
12. Any offense similar to those outlined in the Sisseton-Wahpeton code and any offense similar to sex trafficking by force, fraud, or coercion, video voyeurism of a minor, aggravated sexual abuse, sexual abuse, abusive sexual contact, coercing a minor to engage in prostitution, and transporting a minor to engage in illicit conduct.

J. "Military Offenses" includes any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of PL 105-119 (codified at 10 U.S.C. 951).

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Part 3
Categorized Offenses

75-03-01 Category 1 Offenses

A. Sex Offenses. A "Category 1" offense includes any sex offense for which a person has been convicted by the Sisseton-Wahpeton Oyate Tribal Court and any jurisdiction pursuant to SWOCL 75-02-01(k) that involves any sexual act or sexual contact with another person that is not included in SWOCL 75-03-02 and SWOCL 75-03-03.

B. Offenses Involving Minors. A "Category 1" offense also includes any offense for which a person has been convicted by the Sisseton-Wahpeton Oyate Tribal Court and any jurisdiction pursuant to 75-02-01(k) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.

C. General Tribal Offenses: A conviction for any offense found in the Sisseton-Wahpeton Oyate Penal Code, any other SWOCL, or any other Tribal Court Offenses recognized by the Sisseton-Wahpeton Oyate Tribal Court, including offenses committed on other reservations.

D. Federal Offenses such as, but not limited to: video voyeurism of a minor, receipt or possession of child pornography, misleading domain names of the internet, misleading words or digital images on the internet, coercion to engage in prostitution, travel with the intent to engage in illicit conduct, engaging in illicit conduct in foreign places, failure to file factual statement about an alien individual, or 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) that is similar to those offenses outlined in 75-03-01 shall be considered "Category 1" offenses.

75-03-02 Category 2 Offenses

A. Recidivism and Felonies. Unless otherwise covered by 75-03-03, any sex offense, which is not the first sex offense for which a person has been convicted, that is punishable by 365 days in Tribal Jail or more than one year in other jurisdictions is considered a "Category 2" offense. In case of

subsequent convictions from any tribal court, the offense shall be punishable by 365 days in Tribal Jail or by more than one year in other jurisdictions.

B. Offenses Involving Minors. A "Category 2" offense includes any sex offense for which a person has been convicted by the Sisseton-Wahpeton Oyate Tribal Court, or any jurisdiction, pursuant to 75-02-01(k) that involves:

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

C. Certain Tribal Offenses:

1. 24-05-03 Statutory Rape. For the purposes of this Code, where the victim is 13 years of age but not older than age 18, the perpetrator shall be a Category 2 offender.

D. Federal Offenses such as, but not limited to sex trafficking by force, fraud, or coercion, sex abuse of a minor or ward, abusive sexual contact, where the victim is 13 years of age or older, sexual exploitation of children, selling or buying of children, material involving the sexual exploitation of a minor, production or distribution of material containing child pornography, production of sexually explicit depictions of a minor for import into the United States, transportation of a minor for illegal sexual activity, coercing a minor to engage in prostitution, transporting a minor to engage in illicit 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) that is similar to those offenses outlined in Section 75-03-02 shall be considered "Category 2" offenses.

75-03-03 Category 3 Offenses

A. Recidivism and Felonies. Any sex offense that is punishable by 365 days or more in Tribal Jail or more than one year in other jurisdictions where the sex offender has at least one prior conviction for a Category 2 sex offense, or was previously a Category 2 sex offender, is a Category 3 offense. In case of subsequent convictions from any tribal court, the offense shall be punishable by one to three years in Tribal Jail or by more than one year in other jurisdictions.

B. General Offenses. A "Category 3" offense includes any sex offense for which a person has been convicted by the Sisseton-Wahpeton Oyate Tribal Court, or any other jurisdiction pursuant to SWOCL 75-02-01(k) 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 Tribal Offenses:

1.	24-04-01	Abduction (Victim under 18)
2.	24-04-02	False Imprisonment (Victim under 18)
3.	24-05-04	Rape
4.	24-05-05	Prostitution
5.	24-06-04	Assault with attempt to commit rape
6.	24-06-05	Sexual Assault of a Child
7.	24-06-06	Sexual Assault
8.	24-06-07	Sexual Exploitation of a Child
9.	24-12-04	Unlawful removal of a child
10.	38-02-01(6)	Cruelty to or abuse of a child "Any person who causes or permits a child to be . . . [s]ubjected to sexual abuse, sexual molestation or sexual exploitation by his/her parent, guardian, custodian, or any other person. . ."
11.	48-02-03	Abuse of Disabled Adult (Sexual Abuse)

D. Certain Federal Offenses including but not limited to: aggravated sexual abuse, sexual abuse, or where the victim is 12 years of age or younger – abusive sexual contact.

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) that is similar to those offenses outlined in 75-03-03 shall be considered "Category 3" offenses.

75-03-04 Exemptions

A. This title shall not apply to:

1. Offenses involving Consensual Sexual Conduct. Offenses involving consensual sexual conduct are not a sex offense for the purposes of this Code if the victim was an adult, unless the adult is mentally impaired or

physically incapacitated and unable to consent and/or under the custodial authority of the offender at the time of the offense.

2. A juvenile offender who has been placed on a diversion status with no formal adjudication.
3. Sex Offenders who have been pardoned and are no longer required registering as a sex offender in the convicting jurisdiction prior to living, working, visiting, or attending school on the Lake Traverse Reservation. Sex Offenders, who are pardoned while currently registered with the SWO SORO, will have to initiate reduction through the Reduction Committee.

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Part 4
Required Information

75-04-01 General Requirements

A. Duties. A sex offender covered by this Code who is required to register with the SWO SORO pursuant to Part 5, Sex Offender Registration Requirements, shall provide all of the information detailed in this chapter to the Registering Official. The Registering Official shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with the SWO SORO in accordance with this Code and shall implement policies and procedures.

B. Digitization. All information obtained under this code shall be, at a minimum, maintained by the Registering Official in digitized format.

C. Electronic Database. A sex offender registry shall be maintained in an electronic database by the Registering Official, shall be in a form capable of electronic transmission, or otherwise electronically accessible to other jurisdictions.

75-04-02 Criminal History

A. The SWO SORO with the assistance of SWLE shall obtain, and a covered sex offender shall provide the following information related to the sex offender's criminal history:

1. The date(s) of all arrests;
2. The date(s) of all convictions;
3. The sex offender's status on parole, probation, or supervised release;
4. The sex offender's registration status; and
5. Any outstanding arrest warrants.

75-04-03 Date of Birth

A. Date of Birth. The Registering Official shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:

1. The sex offender's actual date of birth, and
2. Any other date of birth used by the sex offender.

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75-04-04 DNA Sample

A. DNA. If the sex offender's DNA is not already contained in CODIS, the sex offender shall provide the Registering Official a sample of his/her DNA.

B. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an approved government agency lab for analysis and entry of the resulting DNA profile into CODIS.

75-04-05 Driver's Licenses, Enrollment Cards, Identification Cards, Passports, Immigration Documents, Student Identification Cards, and any other identification card

A. Driver's License. The Registering Official 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. Tribal Enrollment. The Registering Official shall obtain, and a covered sex offender shall provide, a photocopy of any identification card issued by a Tribal Enrollment office.

C. Passports. The Registering Official shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.

D. Immigration Documents. The Registering Official shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

E. Student Identification Cards. The Registering Official shall obtain, and a covered sex offender shall provide, a photocopy of any and all Student Identification Cards.

F. Other Identification Card. The Registering Official shall obtain, and a covered sex offender shall provide, a photocopy of any Identification Cards with a picture, including, but not limited to a state issued identification card, work badges, access badges, employment identification cards/badges, etc.

75-04-06 Employment Information

A. Employment. The Registering Official shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:

1. The name of the sex offender's employer,

2. A copy of the sex offender's work schedule,
3. The address of the sex offender's employer, including all work site addresses, and
4. Similar information related to any transient or day labor employment.

75-04-07 Finger and Palm Prints

A. Finger and Palm Prints. The Registering Official shall obtain, and a covered sex offender shall provide, both finger prints and palm print of the sex offender in a digitized format. If digitized format is unavailable and until such time that digitized prints can be obtained, rolled prints shall be taken from the covered sex offender.

75-04-08 Internet Identifiers

A. Internet names. The Registering Official shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity.

1. Any and all email addresses used by the sex offender,
2. Any and all Instant Message, Chat Room, and Social Networking names, addresses, identifiers and Internet Provider addresses,
3. Any and all other designations or monikers used for self-identification in internet communications or postings, and
4. Any and all designations used by the sex offender for the purposes of routing self-identification in internet communications or postings.

75-04-09 Name

A. The Registering Official shall obtain, and a covered offender shall provide, the following information related to the sex offender's name:

1. The sex offenders' full primary given name,
2. Court documents in instances of legal name change,
3. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
4. Any and all ethnic or tribal names by which the sex offender is commonly known.

75-04-10 Phone Numbers

A. Phone Numbers. The Registering Official shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's telephone numbers:

1. Any and all land line telephone numbers,

2. Any and all cellular telephone numbers,
3. Any and all web-based telephone communications device numbers, including, but not limited to, the voice and video calling service known as Voice over IP, and
4. Any and all commonly used telephone numbers.

75-04-11 Picture

A. Photograph. At the time of initial registration the Registering Official will obtain a digitized photograph of the sex offender, including all identifying marks and tattoos.

B. Update Requirements. If there is minimal or no change in physical appearance, a photograph may be taken at the discretion of the Registering Official. Otherwise, a digitized photograph shall be collected by the Registering Official:

1. Every 90 days for Category 3 sex offenders,
2. Every 180 days for Category 2 sex offenders, and
3. Every year for Category 1 sex offenders.

75-04-12 Physical Description

A. Physical Description. The Registering Official shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

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

75-04-13 Professional Licensing Information

A. Professional Licenses. The Registering Official 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.

75-04-14 Address

A. Address. The Registering Official shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence.

1. The address of each residence at which the sex offender resides or will reside, and

2. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

75-04-15 School

A. School Location. The Registering Official shall obtain, and a covered sex offender shall provide the following information related to the sex offender's school:

1. The name and address of each school where the sex offender is or will be or become a student.

75-04-16 Social Security Number

A. Social Security. The Registering Official shall obtain, and a covered sex offender shall provide, the following information:

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

75-04-17 Temporary Lodging

A. Temporary Lodging Information. The Registering Official shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his/her residence for 2 days or more:

1. Identifying information of the temporary lodging locations including addresses, and names of owner(s)/tenant(s), and
2. The dates the sex offender will be staying at each temporary lodging location, including foreign travel and lodging at places away from a sex offender's residence jurisdiction for 2 days or more.

75-04-18 Offense Information

A. Offense Information. The Registering Official shall obtain the text of each provision of the law defining the criminal offense(s) for which the sex offender is registered. This information shall also be provided by the covered sex offender at the covered sex offender's expense.

75-04-19 Vehicle and Commonly Used Vehicles Information

A. Detailed Information. The Registering Official 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, aircrafts, and watercraft, including commonly used vehicles used 10 days or more of 365 days:

1. License plate numbers,
2. Vehicle identification numbers,
3. General description of the vehicle to include color, make, model, and year, and,
4. Any permanent or frequent location where any covered vehicle is kept.

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Part 5
Sex Offender Registration Requirements

75-05-01 When Registration Is Required

Registration is required by individuals who have been convicted in the SWO Tribal Court, reside or live on the Lake Traverse Reservation, are employed by the Sisseton-Wahpeton Oyate, visits the Lake Traverse Reservation, or attends school on the Lake Traverse Reservation. Registration is also required as specified below:

A. Conviction. A sex offender must initially register if they were convicted of a covered sex offense in the SWO Tribal Court regardless of the sex offender's actual or intended residency.

B. Conviction in another jurisdiction. A sex offender must register if they were convicted of a covered sex offense in any Jurisdiction, who intends or actually resides, attends school, works or visits on the Lake Traverse Reservation.

C. Incarceration. A sex offender must register if they are incarcerated while completing any sentence for a covered sex offense arising out of the SWO Tribal Court.

D. Residence. A sex offender residing on the Lake Traverse Reservation, or residing on any property owned by, or in trust for, including fee land owned by the Tribe regardless of location, must register.

E. Employment. A sex offender employed within the Lake Traverse Reservation, or employed on any property owned by, or in trust for, including fee land owned by the Tribe regardless of location, must register.

F. School Attendance. A sex offender, who is a student at any school within the original exterior boundaries of the Lake Traverse Reservation, or on any property owned by, or in trust for, including fee land owned by the Tribe regardless of location, is required to register with the Registering Official. A sex offender registered with the SWO SORO and leaves the Reservation to attend school in another Jurisdiction, with the intent to return or maintain residency on the Lake Traverse Reservation; the student must maintain their registration with the SWO SORO and register in that school's jurisdiction as well.

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75-05-02 Initial Registration

A. Timing. A sex offender who is required to register under this Code shall do so in accordance with the following timeframes:

1. If convicted by the SWO Tribal Court or any other Jurisdiction for a covered sex offense and incarcerated as a result of that offense, the sex offender must register within 3 calendar days of release from incarceration.
2. If convicted by the SWO Tribal Court or any other Jurisdiction for a covered sex offense, but not incarcerated, the sex offender must register within 3 calendar days of sentencing for the registration offense.
3. Within 3 calendar days of establishing a residence, commencing employment, visiting or becoming a student on the Lake Traverse Reservation, or on any property owned by, or in trust for, including fee land owned by the Tribe regardless of location.
4. The sex offender must appear in person to register with the Registering Official.

B. Duties of SWO SORO Director. The SWO SORO shall have policies and procedures in place to ensure the following:

1. That any sex offender incarcerated or sentenced by the Tribal Court or any other Jurisdiction for a covered sex offense must complete the initial registration with the SWO SORO;
2. That the sex offender reads, or has read to them the registration requirements, and signs an acknowledgement form stating that the duty to register has been explained and that the sex offender understands the duty to register. The SWO SORO policies and procedures should also ensure that a completed and signed copy of the registration form has been provided to the offender;
3. That upon entry of the sex offender's information into the registry, the information is immediately forwarded to all other jurisdictions in which the sex offender is required to register as a result of the sex offender's residency, employment, visitation or student status;
4. With regard to changes in a sex offender's registration the Registering Official shall immediately notify:

    a. All jurisdictions where a sex offender intends to reside, work, visit or attend school;
    b. Any jurisdiction where the sex offender is either registered or required to register; and
    c. Specifically with respect to information relating to a sex offender's intent to reside, attend school, visit or commence 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 SWO SORO shall also ensure this information is immediately updated on NSOR.

5. Due to timing requirements in this Code, the Director shall also be responsible for appointing a designee in instances where a sex offender must register during non-business hours (SWLE for e.g.).

C. Duties of Sisseton-Wahpeton Law Enforcement. The SWLE shall have policies and procedures in place to ensure the following.

1. Any sex offender incarcerated by the SWLE for any reason, shall be informed of their duty to register.
2. In the event that the SWO SORO Director is unavailable to complete the sex offender registration, it shall be the duty of the SWLE to complete the registration process.
3. The SWLE shall assist the SWO SORO with obtaining, tribal, county, state and federal criminal history information for the purpose of complying with SWOCL 75-04-02.
4. The SWLE shall assist the SWO SORO with updating sex offender information on NCIC/NSOR.
5. The SWLE shall participate in Community Notification meetings, including those described in SWOCL 75-07-07(B).

75-05-03 Recapture

A. Retroactive registration. The SWO SORO shall have in place policies and procedures to ensure the following 3 categories of sex offenders are subject to the registration and updating requirements of this Code:

1. Sex Offenders incarcerated or under the supervision of the SWO or any other Jurisdiction, whether for a covered sex offense or other crime. The SWO Tribal Prosecutor will initiate a search to determine if the individual must register as a sex offender with the SWO SORO.
2. Sex Offenders already registered or subject to a pre-existing sex offender registration requirement under SWO law or any other Jurisdiction.
3. Sex offenders reentering the criminal justice system due to a new felony conviction.
4. All covered sex offenders who reside, work, visit or attend school on the Lake Traverse reservation is subject to registration requirements. This includes all sex offenders who have previously completed a criminal justice sentence and/or sex offender registration. Upon notification of the duty to register, by the way of an official notice, including the passage of this Code, Sex Offenders must register within 3 calendar days.

B. Timing of Recapture. The SWO SORO will recapture individuals who have committed a sexual offense after January 1, 1984. The SWO SORO shall

ensure recapture of the sex offenders mentioned in SWOCL 75-05-03 (A) within the following timeframe, to be calculated from the date of passage of this code:

1. For Category 1 sex offenders the 1 year;
2. For Category 2 sex offenders, 180 days; and
3. For Category 3 sex offenders, 90 days.

75-05-04 Tolling Registration Period

A. At any time during the registration period, if a covered sex offender is incarcerated for 30 days or more, the registration period may be tolled. The covered sex offender's registration period will stop upon entering custody and restart upon release from custody.

75-05-05 Updating Registration Information

A. Residence Update. All sex offenders required to register in this jurisdiction shall immediately appear in person at the SWO SORO office to update any changes to their name, residence (including termination of residency), employment, or school attendance. All sex offenders who are required to register in this jurisdiction shall immediately inform the SWO SORO, in person, 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 SWO SORO shall immediately notify the Jurisdiction in which the sex offender will be temporarily residing.

B. School Attendance Update. Any sex offender who is a student in any capacity on the Lake Traverse Reservation, that change their school, or otherwise terminate their schooling, shall immediately appear in person at the SWO SORO to update that information. The SWO SORO 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. Employment Update. Any sex offender, who is employed by the tribe in any capacity or otherwise employed on the Lake Traverse Reservation, shall immediately appear in person at the SWO SORO to update employment information. The SWO SORO 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.

75-05-06 Failure to Appear for Registration and Absconding

A. Failure to Appear. In the event a sex offender fails to register with the SWO SORO as required by this Code, the Registering Official shall immediately inform the jurisdiction that provided the notification that the sex offender was to commence residency, employment, visitation or school attendance on the Lake Traverse Reservation that the sex offender failed to appear for registration.

B. Absconded Sex Offenders. If the Registering Official receives information that a sex offender has absconded, the Registering Official shall make an effort to determine if the sex offender has actually absconded.

1. In the event no determination can be made, the Registering Official shall notify any appropriate law enforcement agency with Jurisdiction to investigate the matter.
2. If the information indicating the possible absconding came through notice from another Jurisdiction or federal authorities, the other Jurisdiction or federal authorities shall be informed that the sex offender has failed to appear and register.
3. If an absconded sex offender cannot be located, the Registering Official 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 and or NCIC to reflect the sex offender's status as an absconder, or is otherwise not capable of being located.

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 register or otherwise violates a registration requirement of this code, the SWO SORO shall take all appropriate follow-up measures including those outlined in 75-05-06 (B). The SWO SORO shall first make an effort to determine if the sex offender is actually employed, attending school, residing, or visiting the Lake Traverse Reservation.

75-05-07 Travel Requirements

A. Travel. Covered sex offenders must provide information about any place in which the sex offender is staying when away from his residence for 2 days more. This includes indentifying the name, address, telephone number, and period of time that the sex offender is will be staying at the new location.

B. International Travel. If the sex offender intends to reside, become employed, attend school, or will be traveling outside the United States for more than 3 days, the offender shall notify the SWO SORO of the intended travel 21 days in advance of the intended travel dates. The covered sex offender shall also provide information regarding dates of travel and place of travel. The SWO SORO will report the travel to the appropriate federal agencies and databases.

75-05-08 Safe Zone Restrictions

A. Safe Zone: Registered Sex Offenders are prohibited from residing, working, or loitering within 500 feet of a School, School property/campus or licensed daycare center.

B. Exception to Safe Zone. Registered Sex Offenders traveling through the safe zone for the following exceptions must travel without loitering or delay.

1. Travel through the safe zone to report for any reason to:

a. Police station, tribal treatment facility, tribal court, tribal social services, sex offender registry office, or other tribal programs.

2. School Visitation as described in 75-05-12.

75-05-09 Required Contract Language for Tribal Employment, Self-Employed, Consultants, Construction Contracts, Tribal Business Licenses, Tribal Vendor Licenses, Employment Licenses, and all other Contracts

A. All persons who will be present on the Lake Traverse Reservation, working with the Sisseton-Wahpeton Oyate or its entities, or working in any other capacity are subject to the provisions of this Code.

B. All contract, agreements, licenses, and others must include standard language, subject to revocation, that identifies, not limited to:

1. Acknowledgement of this Code and its provisions; and
2. Adherence to this Code and its provisions.

C. All employees, sub-contractors and all others are subject to this Code and provisions. Failure to comply with any section of this code will result in revocation and/or void any and all contracts, agreements, licenses, and others without penalty on the non-compliant party. Contracts and agreements that fail to contain the standard language may be found to be unenforceable.

75-05-10 Prohibition from Tribal Employment for Failure to Comply

A. No individual may be employed, whether permanent, temporary or seasonal by the Sisseton-Wahpeton Oyate, or its entities, anywhere located, if the individual:

   a. Fails to register with the SWO SORO,
   b. Fails to comply with SWO SORO and any provision of this Code,
   c. Is placed on Absconder status by the SWO SORO; or
   d. Is an Absconder in any jurisdiction.

B. Violations result in immediate suspension and/or termination from employment. No individual may be employed or appear at their place of employment if the individual is not in compliance with this Code.

75-05-11 Child Victim Contact Prohibition

A. Register Sex Offenders are prohibited from having any contact with a child victim of their own offense, including in person, by telephone, or through a third party:

   1. Registered Sex Offenders must maintain a distance of at least 1000 feet from a child victim (of their offense) at all times.

B. Any person who has care, custody or control of a child victim must prohibit any contact, including in person, by telephone, or through a third party by Registered Sex Offenders.

75-05-12 School Visitation

A. There may be instances when a Registered Sex Offender may need to visit a School. Registered Sex Offenders are not allowed within 500 feet of Schools or school property/campus; however there are limited exceptions for a legitimate purpose, as defined by the individual school. Those visits must be monitored in accordance with this section. Under no circumstances are Registered Sex Offenders allowed to be present on School premises without first contacting the SWO SORO Office as required by this Code.

B. At any time, the Schools may prohibit any and all Registered Sex Offender from entering School property/campus. The School will contact the SWO SORO and provide written documentation as to the name of the Registered Sex Offender.

C. A Registered Sex Offender will be restricted to certain areas of school property; failure to adhere to the guidelines specifying the areas of the school the Registered Sex Offender will be found as Failure to Comply. A Registered

Sex Offender will have limited access, if any, to a School and must be escorted by a School Monitor.

D. Registered Sex Offender's access to restrooms is limited to restrooms in which only one individual may occupy the restroom at one time.

E. Upon initial registration, the Registered Sex Offender will be provided with guidelines for each School specifying acknowledgement and receipt. The Registering Official will ensure that the Registered Sex Offender has read, or will read to the Registered Sex Offender the guidelines.

F. Each School will select an adult School Monitor(s) to be the responsible person to monitor the Registered Sex Offender's movements while the Registered Sex Offender is present on school property/campus.

G. The Schools, with the exception of the Tribal College, will schedule parent-teacher conferences with Registered Sex Offenders on a separate day than regularly scheduled conference days, unless the School's School Monitor can escort the Registered Sex Offender throughout the building.

H. Registered Sex Offenders must contact the SWO SORO three (3) days in advance, prior to entering School property/campus. This is to ensure that the SWO SORO contacts the School within 2 days of the Registered Sex Offenders visit to ensure that the School will make arrangements for a School Monitor to be present. A Registered Sex Offender's presence on School grounds is contingent upon these requirements.

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Part 6
Verification and Appearance Requirements

75-06-01 Frequency

A sex offender who is required to register shall at a minimum, appear in person at the SWO SORO or SWLE for their Mandatory Appearance Meetings, in accordance with the following time frames:

A. Category 1 offenders must appear, in person at the SWO SORO, once a year for 15 years from the date of release from a custodial sentence or if no custodial sentence is ordered the date of sentencing;

B. Category 2 offenders must appear, in person at the SWO SORO, once every 180 days for 25 years from the date of release from a custodial sentence or if no custodial sentence is ordered the date of sentencing; and

C. Category 3 offenders must appear, in person at the SWO SORO, once every 90 days for the duration of their lives from the date of release from a custodial sentence or if no custodial sentence is ordered, the date of sentencing.

75-06-02 Requirements for in person appearances

A. The registering official shall ensure that each registered sex offender appear in person at the SWO SORO or SWLE and complete the initial registration form, and acknowledgment form.

B. The registered sex offender shall complete a scheduled change of information form, immediately upon any changes to residence, employment, or education.

C. The registered sex offender shall report on a regular basis to update registration information. The reporting is based upon the Category that the sex offender has been assigned pursuant to SWOCL Chapter 75, Part 3 and that category's reporting requirements under SWOCL 75-06-01.

D. The sex offender shall review the existing registration form for accuracy and update any changes to name, residence, employment, school, physical appearance, vehicle, professional licensing, telephone number (landline, cell phone and commonly used numbers), email address, IM address, or any other internet identifying related information.

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E. The sex offender shall permit the Registering Official to take a photograph.

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Part 7
Community Notification & Sisseton-Wahpeton Oyate Sex Offender Public Website

75-07-01 Purpose

A. The Registering Official shall use and maintain a public sex offender registry website to aid in protecting the public from the dangers of sex offenders, known as the Sisseton-Wahpeton Oyate Sex Offender Public Website or SWO Sex Offender Public Website.

75-07-02 Links

A. The registry website shall include but not limited to, links to sex offender safety, education resources, victim assistance programs, social service programs, treatment programs, and neighboring Jurisdiction websites.

B. The registry website shall include this Code.

75-07-03 Search Capabilities

A. The registry website shall have the capability of conducting searches by name, county, city, zip code, and geographic radius.

75-07-04 Warnings

A. 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.

75-07-05 Instructions

A. The registry website shall include instructions on how a person can contact the Registering Official to correct information which the individual contends is erroneous.

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75-07-06 Required Information

A. Any person as who met the registration requirements of this Code must register with the Registering Official within 3 calendar days of entering the Lake Traverse Reservation.

75-07-07 Public Disclosure of Information

A. The SWO SORO shall disclose the following information to the public via the Sisseton-Wahpeton Oyate Sex Offender Public Website or SWO Sex Offender Public Website and via Tribal Sex Offender Bulletin Boards:

1. Full name, aliases, date of birth, gender, race, physical description, identifying marks, scars or tattoos.
2. The current place of residence of the offender, including where offender commonly sleeps or visits.
3. Any and all vehicle information including license plate number(s), registration number(s) and a full description including make, model and year. This includes all commonly used vehicles.
4. The name and address of any schools or educational institutions or programs the offender is or will be a student.
5. The physical address of any employment that the offender is or will be employed or volunteer.
6. A written statement detailing the date of the conviction, nature of the offense(s), jurisdiction(s) where the offender was convicted, a description of the nature of the crime(s) committed by the offender as well as a description of type of victim generally targeted by the offender, date of release from incarceration, and any parole or probation conditions that may be in effect.
7. Photograph of offender, including updated photographs as required based upon the offender's assigned category.
8. Whether or not the offender is on absconder status, and if so, last known whereabouts.

B. The SWO SORO shall, in addition to disclosure of information via the Sisseton-Wahpeton Oyate Sex Offender Public Website or SWO Sex Offender Public Website, disclose the following information to the public within eight (8) hours, at a public meeting, via distribution of a written community bulletin, or via telephone notification, when it is determined by the SWO SORO and SWLE that the community may be at risk of victimization by an absconder and/or non-compliant offender:

1. The full name, aliases, date of birth, gender, race and physical description of the offender.
2. The current place of residence of the offender, or where the offender commonly sleeps or visits.

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3. A photograph of the offender.
4. A description of any vehicle owned or registered to the offender and the license plate number of the same, including commonly used vehicles.
5. A description of the nature of the crime(s) committed by the offender as well as a description of the type of victim generally targeted by the offender.
6. Date that offense(s) were committed, and the date of release from incarceration and any parole or probation conditions that may be in effect.

C. In assessing the likelihood that the sex offender will re-offend or otherwise victimize the community, the SWO SORO, SWLE and any other appropriate agency shall take into account any or all of the following:

1. The dates, locations, frequency of crimes for which the offender has been convicted.
2. Any treatment that the offender may have completed and the outcomes of the same.
3. The type of person victimized in the past. Any sexual crimes committed against children shall be cause for automatic public notification by the SWO SORO, SWLE and any other appropriate agencies, and shall not be subject to the discretion of law enforcement personnel or any other entity.
4. In instances where a sex offender is non-compliant or has absconded, the SWO SORO, SWLE and any other appropriate agencies, shall notify the victim or guardian. Should an adult victim no longer wish to receive notification, they may provide written request to the SWO SORO to cease notification.
5. At all times every effort will be made to maintain the confidentiality of the victim's identity.

75-07-08 Prohibited Information from the SWO Sex Offender Public Website

A. The SWO Sex Offender Website is prohibited from posting the following information:

1. Arrests not resulting in conviction,
2. Social Security Number,
3. Travel and Immigration Document Numbers,
4. Victim Identity or Identity of Individuals in Witness Protection Program, and
5. Internet identifiers.

75-07-09 Community Notification

A. Notification of Updated Information. Whenever a sex offender registers or updates his or her information with the Registering Official shall:

1. Immediately notify all appropriate Jurisdictions and agencies in order that the information may be updated on NSOR or other relevant databases;
2. Immediately notify any agency, department, or program within the SWO that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not limited to police (tribal, BIA, or FBI), tribal prosecutors, and tribal probation;
3. Immediately notify any and all other registration jurisdiction where the sex offender is registered due to the sex offender's residency, school attendance, visitation or employment; and
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 SWO SORO shall ensure that 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 Registering Official, the SWO Sex Offender Public Website is immediately updated.
2. The SWO SORO has a function that enables the general public to request an email notice that will notify them when a sex offender commences residence, employment, visitation or school attendance with the Lake Traverse Reservation, within a specific 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.
3. The SWO SORO will also provide notices on Tribal Sex Offender Register Bulletin Boards to notify the public that do not have internet access.

75-07-10 Juvenile Sex Offender Registration

A. All Juvenile's, age 14 and older are required to register with the SWO SORO. The SWO SORO will also contact the attending School and provide notice that a student is registered with the SWO SORO.

B. Category 1 Juvenile Sex Offenders will not appear on the SWO Sex Offender Public Website.

C. Category 2 Juvenile Sex Offenders registration information will appear on the SWO Sex Offender Public Website; however photographs will not appear on the SWO Sex Offender Public Website.

D. Category 3 Juvenile Sex Offenders registration information will appear on the SWO Sex Offender Public Website.

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Part 8
Crimes and Civil Sanctions

75-08-01 Definitions

A. Crime. Any violation of a provision of this code, including the provision of false or misleading information, by a sex offender shall be considered a crime and subject to a maximum penalty of 1 year in jail and/or $5,000.00 fine.

B. Civil Penalty. Any violation of a provision of this code by a sex offender shall also/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 civil contempt.

75-08-02 Non-Sex Offender Related Crimes

A. Harboring. A person is guilty of a crime punishable by a maximum penalty of up to 1 year in jail and/or a $5,000 fine if any of the following occurs:

1. Knowingly harbor, attempt to harbor, or assist another in harboring or attempting to harbor a sex offender who is in violation of this Code;
2. Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question them about or to arrest them for noncompliance with the requirements of this Code; or
3. Knowingly provide false information to a law enforcement agency regarding a sex offender.

B. Misuse of Registration Information. A person is guilty of a crime punishable by a maximum penalty of up to 1 year in jail and/or a $5,000 fine they any of the following occurs:

1. Willfully misuse or alter public record information relating to a sex offender or sexual predator, or a person residing or working at an address reported by a sex offender, including information displayed by law enforcement agencies on website; or
2. Exchange sex offender information for profit.

C. Any person required to register as a sex offender who fails to register in a timely manner shall be subject to a civil maximum penalty of up to 1 year in jail and/or a fine of up to $5,000.00 plus court costs and fees.

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75-08-03 Failure to Register

A. Any person who is required to register under this section based on any conviction and violates this section is subject to a civil and/or criminal maximum penalty of 1 year in jail and/or a fine of up to $5,000.00 plus court costs and fees.

B. The SWO Tribal Prosecutor will initiate prosecution within 3 business days upon receipt of written notification from the SWO SORO.

75-08-04 Failure to Provide Information

A. Any person who is required to provide information under this Code based on any conviction and violates this section is subject to a civil and/or criminal maximum penalty of 1 year in jail and/or a fine of up to $5,000.00 plus court costs and fees.

B. The SWO Tribal Prosecutor will initiate prosecution within 3 business days upon receipt of written notification from the SWO SORO.

75-08-05 Failure to Appear at Mandatory Appearance Meetings

A. Any covered sex offender who is required to appear at Mandatory Appearance Meetings with the SWO SORO at 75-06-01, and violates this section is subject to a civil and/or criminal maximum penalty of 1 year in jail and/or a fine of up to $5,000.00 plus court costs and fees.

B. The SWO Tribal Prosecutor will initiate prosecution within 3 business days upon receipt of written notification from the SWO SORO.

75-08-06 Absconding

A. Any person who is required to appear at Mandatory Appearance Meetings with the SWO SORO and violates this section is subject to a civil and/or criminal maximum penalty of 1 year in jail and/or a fine of up to $5,000.00 plus court costs and fees.

B. The SWO Tribal Prosecutor will initiate prosecution within 3 business days upon receipt of written notification from the SWO SORO.

75-08-07 Failure to Comply

A. Any person who fails to comply with any section of this code is subject to a civil and/or criminal maximum penalty of 1 year in jail and/or a fine of up to

$5,000.00 plus court costs and fee; and may cause a Registered Sex Offender an increase in category and/or requirements.

B. The SWO Tribal Prosecutor will initiate prosecution within 3 business days upon receipt of written notification from the SWO SORO.

75-08-08 Reduction & SWO Sex Offender Registration Reduction Committee

A. In some limited instances a Category 1, Registered Sex Offender may request a reduction in their registration period. Decisions made by the Reduction Committee are administrative decisions.

B. SWO Sex Offender Registration Reduction Committee.

1. The SWO Sex Offender Registration Reduction Committee is comprised of volunteers appointed by the SWO Tribal Council with backgrounds in Law Enforcement, any Victims Assistant Services, Child Protection Services, and Legal Education.

C. Reduction Procedure

1. Request is made in writing to the Reduction Committee.
2. The SWO SORO will notify the victim(s) and/or guardians that the sex offender is requesting a reduction. The victim(s) and/or guardians will have the opportunity to express their opinion of whether the sex offender should receive a reduction either in writing or in person to the Reduction Committee for the Reduction Committees consideration.
3. The Reduction Committee will meet within sixty (60) days of the written request.
4. The Reduction Committee will review the written request and determine whether more information is required. If more information is needed to make a decision, the Registered Sex Offender will have 30 days to provide the Reduction Committee with the requested documentation. Failure to submit the documentation to the Reduction Committee will result in cancelation of the request for reduction. The Registered Sex Offender will be unable to request a reduction for the period of 1 year after cancelation of request.

D. If the Reduction Committee decides in favor to recommend that a sex offender's time on the SWO registry be reduced, the Reduction Committee will notify the sex offender in writing of their decision.

E. If the sex offender has received a favorable recommendation from the Reduction Committee, the sex offender must make the request for final decision to SWO Tribal Court.

F. The SWO Tribal Court will set a hearing date and notify the public through the Tribal Newspaper (at the expense of the requesting sex offender) of a pending hearing regarding the reduction request. This hearing will provide the public an opportunity to express their opinions on whether the covered sex offender should or should not receive a reduction. The burden shall be on the individual sex offender to prove that the exemption is applicable.

G. The decision by the SWO Tribal Court will be final with no right to appeal.

H. A sex offender may have their period of registration reduced as follows:

1. Category 1: A Category 1 offender may, upon recommendation by the SWO Sex Offender Reduction Committee and approval by the SWO Tribal Court Judge, have his or her period of registration reduced to 10 years. Factors which contribute to reduction include but are not limited to:

    a. The sex offender has maintained a clean criminal record for a period of 10 years since date of registration;
    b. Has successfully completed probation, parole or supervised release for any criminal offense, including sexual offense conviction;
    c. Has successfully completed a sex offender treatment program certified by the SWO SORO and another Jurisdiction.

2. Category 2 and 3: Category 2 and 3 offenders, who were not adjudicated as a delinquent will not be able to apply for a reduction.

3. Category 3 offenders adjudicated as a delinquent: If a Category 3 offender who was adjudicated delinquent of an offense as a juvenile which required Category 3 registration – may, upon recommendation by the SWO Sex Offender Registration Reduction Committee and approved by the Tribal Court Judge, have his or her period of registration reduced to 25 years if he or she maintains a clean record for 25 consecutive years.

4. Any person who is no longer required to register as a sex offender by way of the convicting Jurisdiction when the convicting Jurisdiction was not the Sisseton Wahpeton Oyate and does not meet the requirements to register under this Code.

SISSETON-WAHPETON OYATE
OF THE
LAKE TRAVERSE RESERVATION

Part 9
Immunity, Good Faith, and Severability

75-09-01 No Waiver of Immunity

A. No waiver. Nothing in this code shall be construed as a waiver of sovereign immunity for the Sisseton-Wahpeton Oyate, its department, agencies, employees, or agents.

75-09-02 Severability

If any clause, sentence, paragraph, section, or part of this Code shall, for any reason be adjudicated by the Tribal or Appellate Court to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof, directly involved in the controversy in which the judgment shall have been rendered.

75-09-03 Construction

This Code shall be interpreted and applied in a manner consistent with all other Codes, Laws, Resolutions, and Regulations or the Sisseton-Wahpeton Oyate.

75-09-04 Amendment

This Code may be amended only upon an affirmative vote of a majority of the Council of the Sisseton Wahpeton Oyate.

75-09-05 Effect of Headings

Headings shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Code.

75-09-06 Interpreting Definitions

Words or phrases used in this Code shall be interpreted so as to give them the meaning they have in common useage for the Sisseton Wahpeton Oyate and to give this Code it's most reasonable application. The words and phrases in this Part are specifically defined and shall control and prevail over any other definition.

Passed: August 28, 2014
Motion No. 86
Resolution No. SWO-14-084

Sisseton Wahpeton Oyate
LAKE TRAVERSE RESERVATION
P.O. Box 509
100 Veterans Memorial Drive
Agency Village, South Dakota 57262-0509
Phone: (605) 698-3911

TRIBAL COUNCIL RESOLUTION NO. SWO-14-084

SISSETON-WAHPETON OYATE CODES OF LAW CHAPTER 75 – SEX OFFENDER NOTIFICATION AND REGISTRATION CODE

WHEREAS, The Sisseton-Wahpeton Oyate is organized under a Constitution and By-laws adopted by the members of the Tribe on August 1-2, 1966, and approved by the Commissioner of Indian Affairs on August 25, 1966, and last amended effective November 15, 2006; and

WHEREAS, The Constitution ARTICLE III, Section 1, states that, the Sisseton-Wahpeton Oyate shall be governed by a Council, and ARTICLE VII, Section 1, states that, the Council shall have the following powers: (a) to represent the Tribe in all negotiations with Federal, State and local governments; (b) to acquire, own, use, manage, lease and otherwise encumber and to dispose of Tribal property, both real and personal, wherever situated; (c) to engage in any business that will further the economic development of the Tribe and its Members, and to use Tribal funds or other resources for such purposes; (d) to make rules governing the relationship of the members of the Tribe, to Tribal property, and to one another as members of the Tribe; (e) to hire employees and agents, including legal counsel, directly or as independent contractors, and to compensate them for their services; (f) to deposit Tribal funds to the credit of the Tribe, without limitations of the amount in any account; (g) to take any action by ordinance, resolution, or otherwise which are reasonably necessary through committees, boards, agents or otherwise, to carry into effect the for-going purposes; (h) to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Sisseton-Wahpeton Oyate; (i) adopt resolutions regulating the procedures of the Tribal Council, its officials and committees in the conduct of Tribal Affairs; and

WHEREAS, On July 29, 2010, the federal government enacted the Tribal Law and Order Act of 2010 (TLOA), to allow, in part, Tribal Courts to increase jail sentences imposed by Tribal Courts; and

WHEREAS, On March 7, 2013, the federal government enacted the Violence Against Women Reauthorization Act of 2013 (VAWA), which recognized the Tribes' inherent right to exercise, "special domestic violence criminal jurisdiction" (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status, who commit act of domestic violence or dating violence or violate certain protection orders in Indian Country; and

WHEREAS, The Tribal Council responded to each of these Federal Laws by directing the SWO Legal Department and entities of the Sisseton-Wahpeton Oyate to work together in implementing each of these laws (SWO-10-112, SWO-14-039); and

WHEREAS, Pursuant to the above TLOA and VAWA provisions, the Sisseton-Wahpeton Oyate (SWO) applied for and received a grant from the National Congress of American Indians (NCAI) to implement the provisions of VAWA and TLOA; and

WHEREAS, In addition, the SWO has been designated by the federal government as a voluntary "Pilot Project", in order to allow the SWO to begin the process of implementing the provisions of VAWA on an accelerated basis and in conjunction, the provisions of TLOA; and

WHEREAS, In order to implement the provisions of federal law, the SWO Judicial Committee has recommended the amendment of Chapter 75, Sex Offender Notification and Registration Code to incorporate certain provisions of the federal laws and allow the SWO to exercise jurisdiction to the fullest extent possible; and

WHEREAS, The SWO Judicial Committee presented the proposed amendments to the seven (7) districts in order to solicit comments and recommendations of Chapter 75, Sex Offender Notification and Registration Code and now recommends passage of the amendments.

NOW THEREFORE, BE IT RESOLVED that the Tribal Council of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, hereby approves of the revised and amended Chapter 75, Sex Offender Notification and Registration Code and all previous versions of Chapter 75, Sex Offender Notification and Registration Code are hereby repealed and superseded by passage of the amended Chapter 75, Sex Offender Notification and Registration Code; and

BE IT FURTHER RESOLVED that the SWO Legal Department is hereby authorized to post Chapter 75, Sex Offender Notification and Registration Code on the Tribe's website for public information purposes; and

BE IT FINALLY RESOLVED that the Chairman and Secretary of the Sisseton-Wahpeton Tribal Council are hereby authorized and instructed to sign this Resolution for and on behalf of the Tribal Council.

CERTIFICATION

We, the Undersigned duly elected Tribal Chairman and Tribal Secretary of the Sisseton-Wahpeton Oyate Tribal Council, do hereby certify that the above resolution was duly adopted by the Sisseton-Wahpeton Oyate Tribal Council, which is composed of 10 members (representing a total of 15 Tribal Council weighted votes and two Executive Committee votes for a total of 17 votes) of whom 10 constituting a quorum, were present at a Tribal Council meeting, duly noticed, called, convened and held at the TiWakan Tio Tipi, Agency Village, South Dakota, August 28, 2014, by a vote of 17 for, 0 opposed, 0 abstained, 0 absent from vote, 1 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 28th day of August 2014.

Robert Shepherd, Tribal Chairman
Sisseton-Wahpeton Oyate

ATTEST:

Robin Quinn, Tribal Secretary
Sisseton-Wahpeton Oyate