



TRIBAL COUNCIL RESOLUTION No. 2011-__28

ADOPTING SEX OFFENDER REGISTRATION CODE

At a duly called meeting of the Tribal Council of the Pueblo of Jemez, the following resolution was passed:

WHEREAS, the Pueblo of Jemez, a federally recognized Indian tribe, has powers of self-government by reason of its original tribal sovereignty, and

WHEREAS, the Pueblo of Jemez Tribal Council exercises the power to legislate and enact civil and criminal tribal laws to control the conduct and activities of tribal members and non-tribal members, and

WHEREAS, the Tribal Council is also committed to protecting its tribal sovereignty and tribal jurisdiction over its lands; and

WHEREAS, in 2007, the Tribal Council determined it would participate as a registration jurisdiction pursuant to Section 127 of the Adam Walsh Act; and

WHEREAS, since that time, the Pueblo has taken efforts on how to implement sex offender registration and notification functions and has continued to work towards substantial implementation with the requirements of the Sex Offender Registration and Notification Act (SORNA); and

WHEREAS, the Tribal Council has reviewed and discussed the proposed Sex Offender Registration Code and determined it to be in the best interest of the Pueblo of Jemez to approve and adopt the proposed Code subject to any changes directed by the Tribal Council.

NOW THEREFORE BE IT RESOLVED that the Pueblo of Jemez Tribal Council hereby approves and adopts the **Pueblo of Jemez Sex Offender Registration Code**, subject to the changes directed by the Tribal Council; and

BE IT FURTHER RESOLVED that the Pueblo of Jemez Tribal Council hereby authorizes and directs the Governor or his designee to take all actions as may be necessary and appropriate to carry out the purposes and intent of the foregoing authorization and this resolution.

Office of the Governor

4471 Highway 4, Box 100 • Jemez Pueblo • New Mexico • 87024
(575) 834-7359 • Fax (575) 834-7331

TRIBAL COUNCIL RESOLUTION No. 2011- 28
ADOPTING SEX OFFENDER REGISTRATION CODE

CERTIFICATION

I, the undersigned, as the Governor of the Pueblo of Jemez hereby certify that at a duly called meeting of the Tribal Council held on the 21st day of July, 2011, the foregoing resolution was passed, a quorum being present and that 7 voted for with 0 opposed and 0 abstained.

Michel Toledo Jr.
Michel Toledo Jr., Governor

Attest: George Sandoz Jr.
Lieutenant Governor

TRIBAL COUNCIL:

Joe Cajero
Joe Cajero

Roger Madalena

Paul S. Chinana
Paul. S. Chinana

Jose L. Pecos

Raymond Gachupin

Arthur Sandia
Arthur Sandia

Frank Loretto
Frank Loretto

Jose Toledo

J. Leonard Loretto

David M. Toledo

Raymond Loretto

Paul Tosa
Paul Tosa

Jose E. Magdalena
Jose E. Magdalena

Vincent A. Toya, Sr.
Vincent A. Toya, Sr.

Joshua Madalena

Office of the Governor

4471 Highway 4, Box 100 • Jemez Pueblo • New Mexico • 87024
(575) 834-7359 • Fax (575) 834-7331

**TITLE XII
SEX OFFENDER REGISTRATION CODE**

CHAPTER 1 GENERAL MATTERS

SECTION 12-1-1 TITLE

This Code shall be known as the Pueblo of Jemez Sex Offender Registration Code.

SECTION 12-1-2 PURPOSE

The intent of this Code is to implement the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or as may be amended.

SECTION 12-1-3 ESTABLISHMENT OF REGISTRATION PROGRAM

- A. Sex Offender Registration Program. The Pueblo of Jemez hereby establishes a sex offender registration program, known as the Pueblo of Jemez Sex Offender Registration Program, which shall be maintained and operated by the Jemez Police Department in accordance with this Code.

- B. Public Sex Offender Registry Website. The Pueblo of Jemez hereby establishes and/or utilizes a public sex offender registry website which shall be utilized and maintained in accordance with this Code.

CHAPTER 2 TERMINOLOGY AND COVERED OFFENSES

SECTION 12-2-1 DEFINITIONS

The Definitions below apply to this Code only.

- A. Conviction. A conviction in any court of competent jurisdiction and includes a deferred sentence, but does not include a conditional discharge. Also referred to as “convicted”.

- B. Employee. An individual who is self-employed or works for any other entity, regardless of compensation including by not limited to volunteers, interns, externs, and apprentices.

- C. Habitually Lives. When the offender actually lives in a jurisdiction for more than fifteen (15) days in total within a one-year period. The fifteen (15) days do not have to be consecutive.

- D. Immediate. “Immediate” and “immediately” means within three (3) business days.

Title XII Page 1

- E. Imprisonment. Incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state “prison” as well as in a local or tribal “jail”.
- F. Jemez Police Department. The Police Department of the Pueblo of Jemez.
- G. Jurisdiction. The term “jurisdiction” refers to the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe. This includes the Pueblo of Jemez lands.
- H. Minor. An individual who has not attained the age of eighteen (18) years.
- I. Pueblo of Jemez Lands. All lands within the exterior boundaries of the Pueblo of Jemez, and lands now or hereafter held in trust for the Pueblo’s benefit by the United States and any other Indian Country over which the Pueblo exercises sovereign authority.
- J. Resides. The location of the individual’s home or other place where the individual habitually lives or sleeps.
- K. Sex Offense. Those offenses contained in Section 111 (5) of SORNA and those offenses enumerated in Section 12-2-2 of this Code or any other covered offense under tribal law.

An offense involving **consensual sexual conduct** is not a sex offense for the purposes of this Code if:

1. the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense; or
2. if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.

- L. Sex Offender. A person convicted of a sex offense pursuant to federal, state, tribal or military law or pursuant to the law of a foreign nation that provides due process similar to that provided in the United States.
- M. Sex Offender Registry. The registry of sex offenders, and a notification program, maintained by the agency or designee designated by the Pueblo of Jemez.
- N. Student. A person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.

- O. SORNA. The Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248), 42 U.S.C. §16911 *et. seq.*, as amended.
- P. Tribal Court. The Pueblo of Jemez Tribal Court.
- Q. Tribe. The Pueblo of Jemez.

SECTION 12-2-2 COVERED OFFENSES

Sex offenders who reside within Pueblo of Jemez lands, are employed within Pueblo of Jemez lands, or attend school within Pueblo of Jemez lands that have been convicted of the following offenses are subject to the requirements of this Code:

- A. Tribal Offenses. Those offenses listed in the Pueblo of Jemez Criminal Code that are designated as requiring the person who is convicted of such offense to register as a “sex offender.”
- B. Attempts and Conspiracies. Any attempt or conspiracy to commit any sex offense.
- C. Federal Offenses. A conviction for any of the following, and any other offense hereafter included within SORNA:
 - 1. Sex trafficking of children (18 U.S.C. §1591),
 - 2. Aggravated sexual abuse (18 U.S.C. §2241),
 - 3. Sexual abuse (18 U.S.C. §2242),
 - 4. Sexual abuse of a minor or ward (18 U.S.C. §2243),
 - 5. Abusive sexual contact (18 U.S.C. §2244),
 - 6. Offenses resulting in death (18 U.S.C. §2245),
 - 7. Sexual exploitation of children (18 U.S.C §2251),
 - 8. Selling of buying of children (18 U.S.C. §2251A),
 - 9. Material involving the sexual exploitation of a minor (18 U.S.C. §2252),
 - 10. Material containing child pornography (18 U.S.C. §2252A),
 - 11. Misleading domain names on the internet (18 U.S.C. §2252B),
 - 12. Misleading words or digital images on the internet (18 U.S.C. §2252C),

13. Production of sexually explicit depictions of a minor for import into the United States (18 U.S.C. §2260),
 14. Transportation of a minor for illegal sexual activity (18 U.S.C. §2421),
 15. Coercion and enticement of a minor for illegal sexual activity (18 U.S.C. §2422),
 16. Transportation of minors for illegal sexual activity, etc. (18 U.S.C. §2423),
 17. Failure to file factual statement about an alien individual (18 U.S.C. §2424), and
 18. Transmitting information about a minor to further criminal sexual contact (18 U.S.C. §2425).
 19. Video voyeurism of minor (18 U.S.C. § 1801)
- D. Foreign Offenses. Any conviction for a sex offense involving any conduct listed in Section 2.02(G) which was obtained pursuant to the law of a foreign nation that provides due process similar to that provided in the United States.
- E. Military Offenses. 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 note).
- F. Juvenile Offenses or Adjudications. Any convictions of juveniles who are prosecuted for a sex offense as adults and those adjudicated delinquent if:
1. the offender is fourteen (14) years of age or older at the time of the offense, and
 2. the offense was comparable to or more severe than the federal crime of aggravated sexual abuse (18 USC §2241) or was an attempt or conspiracy to commit such an offense. This includes engaging in a sexual act with another by:
 - a. force or the threat of serious violence; or
 - b. rendering unconscious or involuntary drugging the victim.
- G. Offenses from Other Jurisdictions. A conviction for any sex offense committed in another jurisdiction 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. 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. 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 federal offenses for:
 - a. sex trafficking by force, fraud, or coercion (18 U.S.C. §1591),
 - b. video voyeurism of a minor (18 U.S.C. §1801),
 - c. aggravated sexual abuse (18 U.S.C. §2241),
 - d. sexual abuse (18 U.S.C. §2242),
 - e. abusive sexual contact (18 U.S.C. §2244),
 - f. coercing a minor to engage in prostitution (18 U.S.C. §2422(b)),
 - g. transporting a minor to engage in illicit conduct (18 U.S.C. §2423(a)).

CHAPTER 3 TIERED OFFENSES

SECTION 12-3-1 TIER 1 OFFENSES

- A. Sex Offenses. A “Tier 1” offense includes any sex offense for which a person has been convicted that is not included in Section 12-3-2 or Section 12-3-3.

- B. Offense Involving Minors. A “Tier 1” offense also includes any offense for which a person has been convicted that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- C. Tribal Offenses. Any conviction in a Tribal Court, including the Pueblo Jemez Tribal Court, of a sex offense covered by this Code where punishment was limited to one (1) year in jail and the person is required to register as a “sex offender.”
- D. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered “Tier 1” offenses:
1. Video voyeurism of a minor (18 U.S.C. §1801),
 2. Receipt or possession of child pornography (18 U.S.C. §2252),
 3. Receipt or possession of child pornography (18 U.S.C. §2252A),
 4. Misleading domain names on the internet (18 U.S.C. §2252B),
 5. Misleading words or digital images on the internet (18 U.S.C. §2252C),
 6. Coercion to engage in prostitution (18 U.S.C. §2422(a)),
 7. Travel with the intent to engage in illicit conduct (18 U.S.C. §2423(b)),
 8. Engaging in illicit conduct in foreign places (18 U.S.C. §2423(c)),
 9. Arranging, inducing, procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain (18 U.S.C. §2423(d))
 10. Failure to file factual statement about an alien individual (18 U.S.C. §2424), and
 11. Transmitting information about a minor to further criminal sexual conduct (18 U.S.C. §2425).
- E. Certain Military Offenses. 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 note) that is similar to those offenses outlined in Section 12-3-1 (A),(B), or (C) shall be considered “Tier 1” offenses.

SECTION 12-3-2 TIER 2 OFFENSES

- A. Recidivism and Felonies. Unless otherwise covered by Section 12-3-3, a “Tier 2” offense is considered any sex offense which is not the first sex offense for which a person

has been convicted, that is punishable by more than one (1) year in jail. Jemez Tribal Court sex offense convictions shall also be considered toward the determination of whether subsequent sex offenses are considered as a Tier 2 offense.

B. Offenses Involving Minors. A “Tier 2” offense includes any sex offense against a minor for which a person has been convicted that involves:

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

C. Certain Federal Offenses. Conviction for any of the following federal offenses or an attempt or conspiracy to commit such an offense shall be considered “Tier 2” offenses:

1. Sex trafficking by force, fraud, or coercion (18 U.S.C. §1591),
2. Arranging, inducing, procuring, or facilitating the travel in interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain (18 U.S.C. §2423(d)),
3. Abusive sexual contact with a person 13 years of age or older (18 U.S.C. §2244),
4. Sexual exploitation of children (18 U.S.C. §2251),
5. Selling or buying of children (18 U.S.C. §2251A),
6. Material involving the sexual exploitation of a minor (18 U.S.C. §2252),
7. Production or distribution of material containing child pornography (18 U.S.C. §2252A),
8. Production of sexually explicit depiction of a minor for import into the United States (18 U.S.C. §2260),
9. Transportation of a minor for illegal sexual activity (18 U.S.C. §2421),
10. Coercing a minor to engage in prostitution (18 U.S.C. §2422(b)),
11. Transporting a minor to engage in illicit conduct (18 U.S.C. §2423(a)).

- D. Certain Military Offenses. 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 note) that is similar to those offenses outlined in Section 12-3-2(A),(B), or (C) shall be considered "Tier 2" offenses.

SECTION 12-3-3 TIER 3 OFFENSES

- A. Recidivism and Felonies. A "Tier 3" offense is any sex offense that is punishable by more than one (1) year in jail where the offender has at least one prior conviction for a Tier 2 sex offense, or has previously become a Tier II sex offender.
- B. General Offenses. A "Tier 3" offense includes any sex offense for which a person has been convicted 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 twelve (12) years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.
- C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered "Tier 3" offenses:
1. Aggravated sexual abuse (18 U.S.C. §2241),
 2. Sexual abuse (18 U.S.C. §2242),
 3. Sexual abuse of a minor or ward (18 U.S.C. §2243), or
 4. Abusive sexual contact where the victim is twelve (12) years of age or younger (18 U.S.C. §2244) (abusive sexual contact).
- D. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of PL 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 12-3-3(A),(B), or (C) shall be considered "Tier 3" offenses.

CHAPTER 4 REQUIRED INFORMATION

SECTION 12-4-1 GENERAL REQUIREMENTS

- A. Duties. A sex offender who is required to register with the Tribe pursuant to Chapter 5 shall provide all of the required information to the Jemez Police Department as necessary, shall obtain all of the required information from covered sex offenders who are required to register with the Tribe in accordance with this Code.
- B. Digitization. All registration information obtained under this Code shall be, at a minimum, maintained by the Jemez Police Department in digitized format.
- C. Electronic Database. A sex offender registry shall be maintained in an electronic database by the designated police department or designee and shall be in a form capable of electronic transmission, or otherwise electronically accessible by other jurisdictions.

SECTION 12-4-2 REQUIRED REGISTRATION INFORMATION

- A. Required Information: When a covered sex offender registers with the Jemez Police Department, the covered sex offender shall provide the following registration information:
 - 1. Name: Sex offender's full primary given name and all nicknames, aliases, pseudonyms, and 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.
 - 2. Date of Birth: The sex offender's actual date of birth and any other date of birth used by the sex offender.
 - 3. Social Security Number: A valid social security number for the sex offender and any social security number the sex offender has used in the past, valid or otherwise.
 - 4. Address: The address of each residence at which the sex offender resides or will reside, and 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.
 - 5. Employment: The name and address of the sex offender's employer, including any physical locations where the sex offender is employed, and similar information related to any transient or day labor employment. Similar information is required for volunteer and unpaid positions.
 - 6. School: The name and address of each school where the sex offender is or will be a student.

7. Criminal History: Every offense for which the sex offender has been convicted, the date and place of all arrests and convictions, the sex offender's status of parole, probation, or supervised release, the sex offender's registration status, and any outstanding arrest warrants.
 - a. The Jemez Police Department shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.
8. Internet Related Identifiers: All email addresses, Instant Message addresses and identifiers, all other designations or monikers used for self-identification in internet communications or postings used by the sex offender, and all designations used for the purpose of routing or self-identification in internet communications or postings, including but not limited to social network identifications, Twitter accounts, video posting sites identifications such as YouTube, etc.
9. Telephone Numbers: Any and all land line telephone numbers, cellular telephone numbers, and all voice-over IP (VOIP) telephone numbers.
10. Identification Documents: A photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction, any identification card including the sex offender's tribal enrollment card issued by any jurisdiction, any passports used by the sex offender and all immigration documents.
11. Professional Licensing Information: All licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.
12. Vehicle Information: License plate numbers, registration numbers or identifiers, a general description of the vehicle to include color, make, model, and year, and any permanent or frequent location where any covered vehicle is kept for all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft and watercraft.
13. DNA Sample. If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Jemez Police Department a sample of his DNA. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.
14. Finger and Palm Prints. A covered sex offender shall provide finger prints and palm prints in a digitized format.

15. Photograph. A current digital photograph of the sex offender shall be required at initial registration. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected:
 - a. Every ninety (90) days for Tier 3 sex offenders,
 - b. Every one-hundred eighty (180) days for Tier 2 sex offenders, and
 - c. Every year for Tier 1 sex offenders.
 16. Physical Description. An accurate general description of the sex offender's physical appearance or characteristics, and any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos. A photograph may be taken of any identifying marks for investigation purposes.
 17. Temporary Lodging. When the sex offender will be absent from his residence for seven (7) days or more, the name and address of the temporary lodging locations, the dates of travel and the dates the sex offender will be staying at each temporary lodging location. The sex offender must provide the required information no later than three (3) days before the scheduled travel and the information/notice must be provided in person.
 18. International Travel. In the event the sex offender will be traveling out of the United States for more than seven (7) days, the offender must inform the Jemez Police Department in person twenty-one (21) days in advance of the date of intended travel.
- B. Sex Offender Acknowledgement Form: The sex offender shall read, or have read to them, and sign a form stating that the duty to register has been explained to them by the Jemez Police Department and that the sex offender understands the registration requirement.
1. The form shall be signed and dated by the Jemez Police Department personnel registering the offender and immediately uploaded into the sex offender registry.

CHAPTER 5 REGISTRATION

SECTION 12-5-1 WHERE REGISTRATION IS REQUIRED

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

- B. Jurisdiction of Incarceration. A sex offender must register if they are incarcerated while completing any sentence for a covered sex offense arising out of the Pueblo of Jemez Tribal Court.
- C. Jurisdiction of Residence. A sex offender who resides within Pueblo of Jemez lands must register.
1. Prohibition Against Non-Jemez Sex Offenders from Residing within Pueblo of Jemez Lands: All non-Indian and non-Jemez Indian convicted sex offenders are prohibited from residing within Pueblo of Jemez lands. Violators are subject to exclusion and removal from the Pueblo.
- D. Jurisdiction of Employment. A sex offender who is employed within Pueblo of Jemez lands or with the Tribe or any entity owned by the Tribe must register.
1. Contractors and Contractor's Employees: Sex offenders who are contractors or employees of contractors doing business within Pueblo of Jemez lands on jobs or projects that exceed five (5) days must notify the Jemez Police Department of their presence within Pueblo of Jemez lands. The Tribe reserves the right to require full registration for those sex offenders who are contractors and/or their employees and will be present within Pueblo of Jemez lands for more than fifteen (15) days. Examples include, but are not limited to, construction contractors, their subcontractors and other service providers. The five (5) and fifteen (15) days referenced herein do not have to be consecutive days.
- E. Jurisdiction of School Attendance. A sex offender who is a student at any school within Pueblo of Jemez lands is required to register.

SECTION 12-5-2 INITIAL REGISTRATION

- A. Timing. A sex offender required to register with the Tribe under this Code shall do so in the following timeframe:
1. Before release from imprisonment for the registration offense if the sex offender is incarcerated,
 2. Within three (3) business days of sentencing for the registration offense if the sex offender is sentenced by the Tribe but not incarcerated, and
 3. Within three (3) business days of establishing a residence, employment or school attendance on Pueblo of Jemez lands when the sex offender relocates within the Pueblo of Jemez lands after being convicted and/or sentenced by another jurisdiction.
- B. Duties of Jemez Police Department. The Jemez Police Department as necessary, shall:

1. Complete the initial registration of any sex offender incarcerated or sentenced by the Tribe for a covered sex offense,
2. Inform and explain to any sex offender initially registering with the Tribe their duties as a sex offender under SORNA and this Code,
3. Have the sex offender read and sign a form as required under Section 12-4-2 (B) above, stating that the duty to register has been explained to them and that the sex offender understands the registration requirement,
4. Confirm that the sex offender is registered, and added to the public website if applicable,
5. Upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status, and
6. That all information is entered and updated in NCIC/NSOR.

SECTION 12-5-3 RECAPTURE

- A. Recapture. The Jemez Police Department, with the assistance of the Tribal Court, will recapture (classify and register) the following categories of sex offenders, including those who previously may not have been required to register:
 1. Sex offenders currently incarcerated or under supervision of the Tribe, whether for a covered sex offense or other crime.
- B. Timing of Recapture. The Jemez Police Department, with the assistance of the Tribal Court, will recapture of the sex offenders mentioned in Section 12-5-3 (A) within the following timeframe to be calculated from the date of implementation of the Tribe's sex offender registration program:
 1. For Tier 1 sex offenders, one (1) year,
 2. For Tier 2 sex offenders, one-hundred eighty (180) days, and
 3. For Tier 3 sex offenders, ninety (90) days.

SECTION 12-5-4 UPDATING REGISTRATION INFORMATION

- A. Duty of Offender to Update. All sex offenders required to register have the duty to update their information to keep their registration current with each jurisdiction where they are required to register.

1. Residence Jurisdiction: Any sex offender required to register with the Tribe must immediately appear in person at the Jemez Police Department to update any change in their name, residence (including termination of residency), employment, and school attendance. Any sex offender required to register with the Tribe must immediately notify the Jemez Police Department by telephone, fax or email communication of any changes to vehicle information, temporary lodging, email addresses, telephone numbers, Instant Messaging addresses, any other designation used in internet communications, postings, or telephone communications and when intending to travel outside of the United States.
 - a. For changes in temporary lodging, the sex offender also has the duty to immediately notify the jurisdiction in which the sex offender will be temporarily staying.
 - b. For intent to travel outside of the United States, the sex offender must report such intent to travel at least twenty-one (21) days in advance of such travel.
2. Employment Jurisdiction: Any sex offender who is employed by the Tribe in any capacity or otherwise is employed within Pueblo of Jemez lands regardless of location that change their employment, or otherwise terminate their employment, must immediately appear in person at the designated police department to update that information.
3. School Jurisdiction: Any sex offender who is a student in any capacity within Pueblo of Jemez lands regardless of location that change their school or otherwise terminate their schooling, shall immediately appear in person at the Jemez Police Department to update that information.

B. Duties of Jemez Police Department. With regard to changes in a sex offender's registration information, the Jemez Police Department shall immediately notify:

1. All jurisdictions where a sex offender intends to reside, work, or attend school,
2. Any jurisdiction where the sex offender is either registered or required to register,
3. With regard to a change in temporary lodging, any jurisdiction in which the sex offender will be temporarily staying, and
4. Specifically with respect to information relating to a sex offender's intent to travel or commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service. The Jemez Police Department shall also ensure this information is immediately updated in the NCIC/NSOR and the sex offender registry website identified in Chapter 7.

**SECTION 12-5-5 FAILURE TO APPEAR FOR REGISTRATION AND
ABSCONDING**

- A. Failure to Appear. In the event a sex offender fails to register with the Tribe as required by this Code, the Jemez Police Department shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the Tribe that the sex offender failed to appear for registration.
- B. Absconded Sex Offenders. If the Jemez Police Department or the Tribe receives information that a sex offender has absconded, the Jemez Police Department shall make an effort to determine if the sex offender has actually absconded.
1. In the event no determination can be made, the Jemez Police Department shall ensure that the appropriate law enforcement agency is notified.
 2. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, that jurisdiction shall be informed that the sex offender has failed to appear and register.
 3. If an absconded sex offender cannot be located then Jemez Police Department shall take the following steps:
 - a. Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located,
 - b. Seek a warrant for the sex offender's arrest, and in the case of a non-Indian, the U.S. Marshals Service or FBI shall be contacted in an attempt to obtain a federal warrant for the sex offender's arrest,
 - c. Notify the U.S. Marshals Service,
 - d. Update NCIC/NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located,
 - e. Enter the sex offender into the National Crime Information Center Wanted Person File.
- C. Failure to Register. In the event a sex offender who is required to register due to their residence, employment or school attendance status fails to do so or otherwise violates a registration requirement of this Code, the Jemez Police Department shall take all appropriate follow-up measures including those outlined in Section 12-5-5 (B). The Jemez Police Department shall first make an effort to determine if the sex offender is actually residing, employed or attending school within the Pueblo of Jemez lands.

CHAPTER 6 VERIFICATION AND APPEARANCE REQUIREMENTS

SECTION 12-6-1 FREQUENCY AND DURATION

- A. Frequency. A sex offender who is required to register with the Tribe shall, at a minimum, appear in person at the Jemez Police Department for purposes of keeping registration current in accordance with the following the frames:
1. For "Tier 1" offenders, once every year for fifteen (15) years from the date of sentencing or if incarcerated from the date of release,
 2. For "Tier 2" offenders, once every one-hundred eighty (180) days for twenty-five (25) years from the date of sentencing or is incarcerated from the date of release,
 3. For "Tier 3" offenders, once every ninety (90) days for the rest of their lives.
- B. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:
1. A Tier 1 offender may have their period of registration and verification reduced by five (5) years if they have maintained a clean record for ten (10) consecutive years,
 2. A Tier 3 offender may have their period of registration and verification reduced to twenty-five (25) years if they were adjudicated delinquent of an offense as a juvenile which required Tier 3 registration and they have maintained a clean record for twenty-five (25) consecutive years.
- C. Clean Record. For purposes of Section 12-6-1 (B) a person has a clean record if:
1. They have not been convicted of any offense for which imprisonment for more than one (1) year may be imposed.
 2. They have not been convicted of any sex offense,
 3. They have successfully completed, without revocation, any period of supervised release, probation, or parole, and
 4. They have successfully completed an appropriate sex offender treatment program certified by a jurisdiction or by the United States Attorney General.

SECTION 12-6-2 REQUIREMENTS FOR IN PERSON APPEARANCES

- A. Photographs. At each in person verification, the sex offender shall permit the Jemez Police Department to take a photograph of the offender or of any identifying marks, including but not limited to scars, birthmarks, moles or tattoos.

- B. Review of Information. At each in person verification the sex offender shall review existing information for accuracy.
- C. Notification. If any new information or change in information is obtained at an in person verification, the Jemez Police Department shall immediately notify all other registration jurisdictions of the information or change in information.
- D. Update Websites and System Information. If any new information or change in information is obtained at an in-person verification, the Jemez Police Department shall immediately update the public website, if applicable, and update information in NCIC/NSOR.

CHAPTER 7 PUBLIC SEX OFFENDER REGISTRY WEBSITE

SECTION 12-7-1 WEBSITE

- A. Website. The Jemez Police Department shall use and maintain a public sex offender registry website. Any tribal specific national website provided or approved by the SMART Office shall qualify as a public sex offender registry website under this Code.
- B. Links. The registry website shall include links to sex offender safety and education resources.
- C. Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
- D. Warnings. The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.
- E. Search Capabilities. The registry website shall have the capability of conducting searches by name, county, city, zip code, and geographic radius.

SECTION 12-7-2 REQUIRED AND PROHIBITED INFORMATION

- A. Required Information. The following information shall be made available to the public on the sex offender registry website:
 - 1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
 - 2. All other sex offenses for which the sex offender has been convicted,
 - 3. The sex offense(s) for which the offender is currently registered,

4. The address of the sex offender's employer(s),
 5. The name of the sex offender including all aliases,
 6. A current photograph of the sex offender,
 7. A physical description of the sex offender,
 8. The residential address and, if relevant, a description of a habitual residence of the sex offender,
 9. All addresses of schools attended by the sex offender, and
 10. The sex offender's vehicle license plate number along with a description of the vehicle.
- B. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:
1. Any arrest that did not result in conviction,
 2. The sex offender's social security number,
 3. Any travel and immigration documents, and
 4. The identity of the victim, and
 5. Internet identifiers.
- C. Witness Protection. For sex offenders who are under a witness protection program, the designated police department may honor the request of the United States Marshal Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.
- D. Juvenile Offenders. A juvenile sex offender adjudicated delinquent of a registerable sex offense must register with the Jemez Police Department in accordance with this Code but the Police Department shall not post the juvenile sex offender's information on the public registry website.

SECTION 12-7-3 COMMUNITY NOTIFICATION

- A. Law Enforcement Community Notification. Whenever a sex offender registers or updates their information with the Tribe, the Jemez Police Department shall:

1. Immediately ensure the information is updated on NCIC/NSOR and monitor or utilize the SORNA Exchange Portal for inter-jurisdictional changes,
 2. Immediately notify any agency, department, or program within the Tribe that is responsible for criminal investigation, prosecution, child welfare, or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation,
 3. Immediately notify any and all other registration jurisdictions due to the sex offender's residency, school attendance, 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).
- B. Community Notification. An automated community notification process shall be in place that ensures the following:
1. Upon a sex offender's registration or update of information with the Tribe, the public registry website is immediately updated,
 2. Email notice is available to the general public to notify them when a sex offender commences residence, employment, or school attendance with the Tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity.

CHAPTER 8 SANCTIONS

SECTION 12-8-1 SANCTIONS

- 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 penalty of up to three hundred sixty-five (365) days in jail and/or a Five Thousand Dollar (\$5,000) 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, civil contempt, and exclusion.

SECTION 12-8-2 NON-SEX OFFENDER RELATED CRIMES

- A. Harboring. A person is guilty of a crime punishable by up to three hundred sixty-five (365) days in jail and/or a Five Thousand Dollar (\$5,000) fine if they:

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, or
 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 up to three hundred sixty-five (365) days in jail and/or a Five Thousand Dollar (\$5,000) fine if they:
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 web sites; or
 2. Sell or exchange sex offender information for profit.

CHAPTER 9 IMMUNITY

SECTION 12-9-1 NO WAIVER OF IMMUNITY

Nothing in this Code shall be construed as a waiver of sovereign immunity for the Pueblo of Jemez, its departments, agencies, employees, or agents.

SECTION 12-9-2 GOOD FAITH

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