

**TITLE 5A:  
MAKAH SEX OFFENDER REGISTRATION CODE**

**5A.1 GENERAL MATTERS.....2**

**5A.2 TERMINOLOGY AND COVERED OFFENSES.....3**

    5A.2.1 Definitions.....4

**5A.3 COVERED OFFENSES.....5**

**5A.4 TIERED OFFENSES.....7**

    5A.4.1 Tier One Offenses.....7

    5A.4.2 Tier Two Offenses.....8

    5A.4.3 Tier Three Offenses.....9

**5A.5 REQUIRED INFORMATION.....10**

    5A.5.1 General Requirements.....10

    5A.5.2 Criminal History.....10

    5A.5.3 Date of Birth.....11

    5A.5.4 DNA Sample.....11

    5A.5.5 Identification Documents.....11

    5A.5.6 Employment Information.....11

    5A.5.7 Finger & Palm Prints.....11

    5A.5.8 Internet Identifiers.....11

    5A.5.9 Name.....12

    5A.5.10 Telephone Numbers.....12

    5A.5.11 Picture.....12

    5A.5.12 Physical Description.....12

    5A.5.13 Professional Licensing Information.....13

    5A.5.14 Residential Address.....13

    5A.5.15 School.....13

    5A.5.16 Social Security Number.....13

    5A.5.17 Temporary Lodging.....13

    5A.5.18 Offense Information.....14

    5A.5.19 Vehicle Information.....14

    5A.5.20 Frequency, Duration & Reduction.....14

    5A.5.21 Requirements for In-Person Appearances.....15

**5A.6 REGISTRATION.....15**

    5A.6.1 Where is Registration Required.....15

    5A.6.2 Timing of Registration.....15

    5A.6.3 Retroactive Registration.....16

    5A.6.4 Keeping Registration Current.....16

    5A.6.5 Failure to Appear for Registration Absconding.....17

**5A.7 PUBLIC SEX OFFENDER REGISTRY WEBSITE.....18**

    5A.7.1 Website.....18

    5A.7.2 Required and Prohibited Information.....19

    5A.7.3 Community Notification.....19

**5A.8 IMMUNITY.....20**

**5A.9 CRIMES & CIVIL SANCTIONS.....20**

# **CHAPTER 1**

## **5A.1 GENERAL MATTERS**

### **5A1.1 Title**

This Code shall be known as the Makah Sex Offender Registration Code (MSORC).

### **5A1.2 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 hereafter amended.

### **5A1.3 Need**

Violent crime in Indian Country is more than twice the national average. On some reservations it is 20 times the national average. Thirty percent of Indian and Alaska Native women will be raped in their lifetimes. Tribal nations, including the Makah Tribe, are disproportionately affected by violent crime and sex offenses in particular from 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.

### **5A1.4 Creation of Registries**

- (1) Sex Offender Registry. This Code hereby establishes a sex offender registry that the Neah Bay Police Department shall maintain and operate pursuant to the provisions of this Code.
- (2) Public Sex Offender Registry Website. This Code hereby establishes a public sex offender registry website that the Neah Bay Police Department shall maintain and operate pursuant to this Code.

## **5A.2 TERMINOLOGY AND COVERED OFFENSES**

The definitions in section 5A.2.1 below shall apply to this Code only.

### **5A.2.1 Definitions**

#### **5.2.1.1 - Convicted**

An adult sex offender is “convicted” for the purposes of this Code if the sex offender has:

- (1) Been subjected to penal consequences based on the conviction, however the conviction may be titled.

A juvenile offender is “convicted” for purposes of this Code if the juvenile offender is either:

- (2) Prosecuted and found guilty as an adult for a sex offense; or
- (3) Adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to

or more severe than aggravated sexual abuse (as described in either a) or b) of 18 U.S.C. § 2241), or was an attempt or conspiracy to commit such an offense.

#### **5.2.1.2 - Foreign Convictions**

A foreign conviction is one obtained outside of the United States.

#### **5.2.1.3 - Employee**

“Employee” as used in this Code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers of a tribal agency or organization are included within the definition of “employee” for registration purposes.

#### **5.2.1.4 - Immediate**

“Immediate” and “immediately” mean within 3 business days.

#### **5.2.1.5 - Imprisonment**

“Imprisonment” refers to incarceration pursuant to a conviction, regardless of the nature of the institution or facility in which the offender serves the sentence. “Imprisonment” shall be interpreted broadly to include, for example, confinement in a state prison as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal jail. Persons under house arrest following conviction of a covered sex offense are required to register pursuant to this Code during their period of their house arrest.

#### **5.2.1.6 - Jurisdiction**

“Jurisdiction” refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any federally recognized Indian tribe operating as a SORNA jurisdiction.

#### **5.2.1.7 - Minor**

“Minor” means an individual who has not attained the age of 18.

#### **5.2.1.8 - Resides**

“Resides” or “reside” means, with respect to an individual, the location of the individual’s home or other place where the individual habitually lives or sleeps.

#### **5.2.1.9 - Sex Offense**

“Sex offense” as used in this Code includes those offenses contained in 42 U.S.C. § 16911(5) and those offenses enumerated in chapter 5A.2 of this Code and any other covered offense under tribal law, and any attempt or conspiracy to commit any sex offense.

#### **5.2.1.10 - Sex Offender**

A “sex offender” is a person convicted of a sex offense.

#### **5.2.1.11 - Sexual Act**

“Sexual act” means:

- (1) contact between the penis and the vulva or the penis and the anus, and for purposes of this definition, contact involving the penis occurs upon penetration, however slight’
- (2) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
- (3) the penetration, however slight, of the anal or genital opening of another by a hand or finger, or by any object with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

- (4) the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

**5.2.1.12 - Sexual Contact**

The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of another person.

**5.2.1.13 - Student**

A “student” is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education. For purposes of this Code, “student” shall also include any student who is participating in an intern, extern, or apprentice program through any private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.

**5.2.1.14 - SORNA**

The Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248), *codified at* 42 U.S.C. §§ 16911 et seq. as amended.

**5.2.1.15 - Sex Offender Registry**

“Sex offender registry” means the registry of sex offenders and the notification program run by the Neah Bay Police Department.

**5.2.1.16 - National Sex Offender Registry (NSOR)**

The national database maintained by the U.S. Attorney General pursuant to 42 U.S.C. § 16919.

**5.2.1.17 - SMART Office**

The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established with the U.S. Department of Justice under the general authority of the U.S. Attorney General pursuant to 42 U.S.C. § 16945.

**5.2.1.18 - Dru Sjodin National Sex Offender Public Website (NSOPW)**

The public website maintained by the U.S. Attorney General pursuant to 42 U.S.C. § 16920.

**5.2.1.19 - Tier 1 Sex Offender**

A “Tier 1 sex offender” is one that has been convicted of a Tier 1 sex offense as designated in Section 5A.4.1.

**5.2.1.20 - Tier 2 Sex Offender**

A “Tier 2 sex offender” is one that has been convicted of a Tier 2 sex offense as designated in Section 5A.4.2 or who is subject to the recidivist provisions of § 5A.4.2(2).

**5.2.1.21 - Tier 3 Sex Offender**

A “Tier 3 sex offender” is one that has been convicted of a Tier 3 sex offense as designated in section 5A.4.3 or who is subject to the recidivist provisions of § 5A.4.3(1).

## 5A.3 COVERED OFFENSES

Individuals who (i) reside within the exterior boundaries of the Makah Indian Reservation or otherwise reside on property owned by the Tribe in fee or trust regardless of location, (ii) are employed within the exterior boundaries of the Reservation or on property owned by the Tribe in fee or trust regardless of location, or (iii) attend school within the exterior boundaries of the Reservation or on property owned by the Tribe in fee or trust regardless of location, that have been convicted of any of the following offenses, or convicted of an attempt or conspiracy to commit any of the following offenses, are subject to the requirements of this Code.

- (1) Tribal offenses: A conviction of any of the following, and any other offense hereafter included in the definition of “sex offense” under Makah Law & Order Code Title 5B.
  - a. MAKAH LAW & ORDER CODE § 5B.4.1 (child rape in the first degree)
  - b. MAKAH LAW & ORDER CODE § 5B.4.2 (child rape in the second degree)
  - c. MAKAH LAW & ORDER CODE § 5B.4.3 (sexual abuse of children)
  - d. MAKAH LAW & ORDER CODE § 5B.4.4 (incest)
  - e. MAKAH LAW & ORDER CODE § 5B.4.5 (indecent liberties)
  - f. MAKAH LAW & ORDER CODE § 5B.4.6 (prostitution)
  - g. MAKAH LAW & ORDER CODE § 5B.4.7 (promoting prostitution in the first degree)
  - h. MAKAH LAW & ORDER CODE § 5B.4.8 (promoting prostitution in the second degree)
  - i. MAKAH LAW & ORDER CODE § 5B.4.9 (permitting prostitution)
  - j. MAKAH LAW & ORDER CODE § 5B.4.10 (public indecency)
  - k. MAKAH LAW & ORDER CODE § 5B.4.11 (rape in the first degree)
  - l. MAKAH LAW & ORDER CODE § 5B.4.12 (rape in the second degree)
  - m. MAKAH LAW & ORDER CODE § 5B.4.13 (rape in the third degree)
  - n. MAKAH LAW & ORDER CODE § 5B.4.14 (kidnapping in the first degree)
  - o. MAKAH LAW & ORDER CODE § 5B.4.18 (kidnapping in the second degree)
- (2) Federal offenses. A conviction of any of the following, and any other offense hereafter included in the definition of “sex offense” at 42 U.S.C. § 16911(5):
  - a. 18 U.S.C. § 1591 (sex trafficking of children)
  - b. 18 U.S.C. § 1801 (video voyeurism of a minor)
  - c. 18 U.S.C. § 2241 (aggravated sexual abuse)
  - d. 18 U.S.C. § 2242 (sexual abuse) Makah Indian Tribe Law & Order Code Title 5A
  - e. 18 U.S.C. § 2243 (sexual abuse of a minor or ward)
  - f. 18 U.S.C. § 2244 (abusive sexual contact)
  - g. 18 U.S.C. § 2245 (offenses resulting in death)
  - h. 18 U.S.C. § 2251 (sexual exploitation of children)
  - i. 18 U.S.C. § 2251A (selling or buying of children)

- j. 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor)
  - k. 18 U.S.C. § 2252A (material containing child pornography)
  - l. 18 U.S.C. § 2252B (misleading domain names on the internet)
  - m. 18 U.S.C. § 2252C (misleading words or digital images on the internet)
  - n. 18 U.S.C. § 2260 (production of sexually explicit depictions of a minor for import into the United States)
  - o. 18 U.S.C. § 2421 (transportation of a minor for illegal sexual activity)
  - p. 18 U.S.C. § 2422 (coercion and enticement of a minor for illegal sexual activity)
  - q. 18 U.S.C. § 2423 (Mann Act)
  - r. 18 U.S.C. § 2424 (failure to file factual statement about an alien individual)
  - s. 18 U.S.C. § 2425 (transmitting information about a minor to further criminal sexual conduct)
- (3) Foreign Offenses. Any conviction for a sex offense involving any conduct listed in this Section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when the U.S. Department of State in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.
- (4) Military Offenses. Any military offense specified by the Secretary of Defense under § 115(a)(8)(c)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951 note).
- (5) Juvenile Offenses or Adjudications. Any sex offense or attempt or conspiracy to commit a sex offense that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified at 18 U.S.C. § 2241) and committed by a minor who is 14 years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.
- (6) Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including the jurisdiction of the Makah Tribe or any other federally recognized tribe that involves:
- a. Any type or degree of genital, oral, or anal penetration,
  - b. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing,
  - c. Kidnapping of a minor,
  - d. False imprisonment of a minor,
  - e. Solicitation to engage a minor in a sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
  - f. Use of a minor in a sexual performance,
  - g. Solicitation of a minor to practice prostitution,
  - h. Possession, production, or distribution of child pornography,

- i. Criminal sexual conduct that involves the physical contact with a minor or the use of the internet to facilitate or attempt 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,
- j. Any conduct that by its nature is a sex offense against a minor, or
- k. Any offense similar to those outlined in:
  - i. 18 U.S.C. § 1591 (sex trafficking by force, fraud, or coercion)
  - ii. 18 U.S.C. § 1801 (video voyeurism of a minor),
  - iii. 18 U.S.C. § 2241 (aggravated sexual abuse),
  - iv. 18 U.S.C. § 2242 (sexual abuse)
  - v. 18 U.S.C. § 2244 (abusive sexual contact),
  - vi. 18 U.S.C. § 2422(b) (coercing a minor to engage in prostitution)
  - vii. 18 U.S.C. § 2423(a) (transporting a minor to engage in illicit conduct)

## **5A.4 TIERED OFFENSES**

### **5A.4.1 Tier One Offenses**

- (1) Sex Offenses. A Tier 1 offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that is not a Tier 2 or Tier 3 offense.
- (2) Offenses Involving Minors. A Tier 1 offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to § 5A.3(3) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- (3) Tribal Offenses. Conviction for any of the following offenses under the MAKAH LAW & ORDER CODE shall be considered a conviction for a Tier 1 offense:
  - a. § 5B.4.4 (incest)
  - b. § 5B.4.5 (indecent liberties, if the victim is older than 12 years of age)
  - c. § 5B.4.6 (prostitution)
  - d. § 5B.4.7 (promoting prostitution in the first degree)
  - e. § 5B.4.8 (promoting prostitution in the second degree)
  - f. § 5B.4.9 (permitting prostitution)
  - g. § 5B.4.10 (public indecency)
  - h. § 5B.4.13 (rape in the third degree)
- (4) Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a Tier 1 offense:

- a. 18 U.S.C. § 1801 (video voyeurism of a minor)
  - b. 18 U.S.C. § 2252 (receipt or possession of child pornography)
  - c. 18 U.S.C. § 2252A (receipt or possession of child pornography)
  - d. 18 U.S.C. § 2252B (misleading domain names on the internet)
  - e. 18 U.S.C. § 2252C (misleading words or images on the internet)
  - f. 18 U.S.C. § 2422(a) (coercion to engage in prostitution)
  - g. 18 U.S.C. § 2423(b) (travel with the intent to engage in illicit conduct)
  - h. 18 U.S.C. § 2423(c) (engaging in illicit conduct in foreign places)
  - i. 18 U.S.C. § 2424 (failure to file factual statement about an alien individual), or
  - j. 18 U.S.C. § 2425 (transmitting information about a minor to further criminal sexual conduct)
- (5) Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951 note) that is similar to those offenses outlined in this subsections (1) through (4) shall be considered a Tier 1 offense.

#### **5A.4.2 Tier Two Offenses**

- (1) Recidivism and Felonies. Unless otherwise covered by § 5A.4.3, any sex offense that is not the first sex offense for which a person has been convicted and that is punishable by more than one year in jail is a Tier 2 offense.
- (2) Offenses Involving Minors. A Tier 2 offense includes any sex offense against a minor for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:
- a. The use of minors in prostitution, including solicitation;
  - b. Enticing a minor to engage in criminal sexual activity;
  - c. Non-forcible sexual act with a minor 16 or 17 years old;
  - d. Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body;
  - e. The use of a minor in a sexual performance; or
  - f. The production or distribution of child pornography.
- (3) Tribal Offenses. Conviction for any of the following offenses under Title 5 of the MAKAH LAW & ORDER CODE shall be considered a conviction for a Tier 2 offense:
- g. § 5B4.2 (child rape in the second degree)
  - h. § 5B 4.5 (indecent liberties, if the victim is 12 years of age or younger)
  - i. § 5B 4.12 (rape in the second degree)



- (4) Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a Tier 2 offense:
- j. 18 U.S.C. § 1591 (sex trafficking by force, fraud, or coercion)
  - k. 18 U.S.C. § 2244 (abusive sexual contact, where the victim is 13 years of age or older)
  - l. 18 U.S.C. §2251 (sexual exploitation of children)
  - m. 18 U.S.C. § 2251A (selling or buying of children)
  - n. 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor)
  - o. 18 U.S.C. § 2252A (production or distribution of material containing child pornography)
  - p. 18 U.S.C. § 2260 (production of sexually explicit depictions of a minor for import into the United States)
  - q. 18 U.S.C. § 2421 (transportation of a minor for illegal sexual activity)
  - r. 18 U.S.C. § 2422(b) (coercing a minor to engage in prostitution)
  - s. 18 U.S.C. § 2423(d) (transportation of minors)
- (5) Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951 note) that is similar to those offenses outlined in this subsections (1) through (4) shall be considered a Tier 2 offense.

### **5A.4.3 Tier Three Offenses**

- (1) Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction for a Tier 2 sex offense or has previously become a Tier 2 sex offender is a Tier 3 offense.
- (2) General Offenses. A Tier 3 offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:
- a. Non-parental kidnapping of a minor,
  - b. A sexual act with another by force or threat,
  - c. 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
  - d. (d) Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching or contact with the intimate parts of the body, either directly or through the clothing.
- (3) Tribal Offenses. Conviction for any of the following offenses under the MAKAH LAW & ORDER CODE shall be considered a conviction for a Tier 3 offense:
- a. § 5B 4.1 (child rape in the first degree)
  - b. § 5B 4.3 (sexual abuse of children)

- c. § 5B 4.11 (rape in the first degree)
- (4) Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a Tier 3 offense:
  - a. 18 U.S.C. § 2241 (aggravated sexual abuse)
  - b. 18 U.S.C. § 2242 (sexual abuse)
  - c. 18 U.S.C. § 2243 (sexual abuse of a minor or ward) or where the victim is 12 years of age or younger
  - d. 18 U.S.C. § 2244 (abusive sexual contact)
- (5) Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951 note) that is similar to those offenses outlined in subsections (1) through (4) shall be considered a Tier 3 offense.

## **5A.5 REQUIRED INFORMATION**

### **5A.5.1 General Requirements**

- (1) Duties. A sex offender covered by this Code who is required to register with the Makah Tribe pursuant to this Code shall provide all of the information detailed in this chapter to the Neah Bay Police Department, and the Neah Bay Police Department shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with the tribe in accordance with this Code and shall implement any relevant policies and procedures.
- (2) Digitization. All information shall be obtained under this Code shall be, at minimum, maintained by the Neah Bay Police Department in a digitized format.
- (3) Electronic Database. A sex offender registry shall be maintained in an electronic database by the Neah Bay Police Department and shall be in a form capable of electronic transmission.

### **5A.5.2 Criminal History**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's criminal history:

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

### **5A.5.3 Date of Birth**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:

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

### **5A.5.4 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 Neah Bay Police Department or its designee 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 into CODIS.

### **5A.5.5 Driver's Licenses, Identification Cards, Passports, and Immigration Documents**

- (1) The Neah Bay Police Department or its designee 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.
- (2) The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.
- (3) The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.
- (4) The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

### **5A.5.6 Employment Information**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:

- (1) The name of the sex offender's employer,
- (2) The address of the sex offender's employer,
- (3) Similar information related to any transient or day labor employment.

### **5A.5.7 Finger and Palm Prints**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, both finger prints and palm prints of the sex offender in a digitized format.

### **5A.5.8 Internet Identifiers**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet-related activity:

- (1) Any and all email addresses used by the sex offender,
- (2) Any and all instant message (IM) addresses and identifiers,
- (3) Any and all other designations or monikers used for self-identification in internet communications or postings, and
- (4) Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

#### **5A.5.9 Name**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:

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

#### **5A.5.10 Telephone Numbers**

The Neah Bay Police Department or its designee 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 or wireless telephone numbers, and
- (3) Any and all voice over IP (VOIP) telephone numbers.

#### **5A.5.11 Picture**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.

A digitized photograph shall be collected:

- (1) Every 90 days for Tier 3 sex offenders,
- (2) Every 180 days for Tier 2 sex offenders, and
- (3) Every year for Tier 1 sex offenders.

#### **5A.5.12 Physical Description**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

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

### **5A.5.13 Professional Licensing Information**

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

### **5A.5.14 Residential Address**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:

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

### **5A.5.15 School**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:

- (1) The address of each school where the sex offender is or will be a student, and
- (2) The name of each school where the sex offender is or will be a student.

### **5A.5.16 Social Security Number**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, the following information:

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

### **5A.5.17 Temporary Lodging**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for 7 days or more:

1. Identifying information of the temporary lodging locations including addresses and names, and
2. The dates the sex offender will be staying at each temporary lodging location.
3. Travel Abroad. A sex offender shall notify the Neah Bay Police Department in writing 21 days in advance if he or she intends to travel outside of the United States. Upon such notification, the Neah Bay Police Department shall:
  - (a) notify the U.S. Marshals Service
  - (b) update the sex offender's registration information in NCIC/NSOR information, and
  - (c) immediately notify any other jurisdiction where the sex offender is either registered or is required to register of that updated information.

### **5A.5.18 Offense Information**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, the text of each provision of law defining the criminal offenses(S) for which the sex offender is registered;

### **5A.5.19 Vehicle Information**

The Neah Bay Police Department or its designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles (two- and four-wheeled), aircraft, and watercraft:

4. License plate numbers,
5. Registration numbers or identifiers,
6. General description of the vehicle, including color, make, model and year, and
7. Any permanent or frequent location(s) where any covered vehicle is kept.

### **5A.5.20 Frequency, Duration, and Reduction**

1. Frequency. A sex offender is who is required to register shall, at a minimum, appear in person at the Neah Bay Police Department for purposes of verification and keeping their registration current in accordance with the following time frames:
  - a. For Tier 1 offenders, once every year for 15 years from the date of release from custody for a sex offender who is incarcerated for the registration offense, or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
  - b. For Tier 2 offenders, once every 180 days for 25 years from the date of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
  - c. For Tier 3 offenders, once every 90 days for the rest of their lives.
2. Reduction of Registration Requirements. A sex offender may have their period of registration reduced by order of the Makah Tribal Court as follows:
  - a. A Tier 1 offender may have his/her period of registration reduced from 15 years to 10 years if he or she has maintained a clean record for 10 consecutive years after the date of release from custody for a sex offender who is incarcerated for the registration offense, or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
  - b. A Tier 3 offender may have his or her period of registration reduced from lifetime to 25 years if he or she was adjudicated delinquent of an offense as a juvenile that required Tier 3 registration and he or she has maintained a clean record for 25 consecutive years from the date of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
3. Clean Record. For purposes of this section 5A.5.20 a person has a clean record if:

- a. He or she has not been convicted of an offense characterized as a felony by any jurisdiction, regardless of the length of time for which imprisonment may be imposed,
- b. He or she has not been convicted of any sex offense,
- c. He or she has successfully completed, without revocation, any period of supervised release, probation, or parole, and
- d. He or she has successfully completed an appropriate sex offender treatment program certified by the Tribe, another jurisdiction, or by the Attorney General of the United States.

### **5A.5.21 Requirements for In-Person Appearances**

1. Photographs. At each in-person verification, the sex offender shall permit the Neah Bay Police Department to take a photograph of the offender.
2. Review of Information. At each in-person verification, the sex offender shall review existing information for accuracy.
3. Notification. If any new information or change in information is obtained at an in-person verification, the Neah Bay Police Department shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change or change in information.

## **5A.6 REGISTRATION**

### **5A.6.1 Where Registration Is Required**

1. Jurisdiction of Conviction. A sex offender must initially register with the Neah Bay Police Department or its designee if the sex offender was convicted by the Makah Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.
2. Jurisdiction of Incarceration. A sex offender must register with the Neah Bay Police Department or its designee if the sex offender is incarcerated by the Tribe while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.
3. Jurisdiction of Residence. A sex offender must register with the Neah Bay Police Department or its designee if the sex offender resides within the jurisdiction of the Tribe.
4. Jurisdiction of Employment. A sex offender must register with the Neah Bay Police Department or its designee if he or she is employed by the Tribe in any capacity or if the sex offender is employed within the jurisdiction of the Tribe.
5. Jurisdiction of School Attendance. A sex offender must register with the Neah Bay Police Department or its designee if the sex offender is a student in any capacity within the jurisdiction of the Tribe.

### **5A.6.2 Timing of Registration**

1. Timing. A sex offender required to register with the Tribe pursuant to this Code shall do so in the following timeframes:

- a. If convicted by the Makah Tribe for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
  - b. If convicted by the Makah Tribe but not incarcerated, within 3 business days of sentencing for the registration offense;
  - c. Within 3 business days of establishing a residence, commencing employment, or becoming a student on lands subject to the jurisdiction of the Tribe, a sex offender must appear in person to register with the Neah Bay Police Department.
2. Duties of Neah Bay Police Department. The Neah Bay Police Department shall have policies and procedures in place to ensure the following:
- a. That any sex offender incarcerated or sentenced by the Tribe for a covered sex offense completes their initial registration with the Tribe,
  - b. That the sex offender reads, or has read to him or her, and signs a form stating that the duty to register has been explained to him or her, and that the sex offender understands the registration requirement,
  - c. That the sex offender is registered, and
  - d. That upon entry of the sex offender's information into the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

### **5A.6.3 Retroactive Registration**

1. Retroactive Registration. The Neah Bay Police Department shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this Code:
  - a. Sex offenders incarcerated or under the supervision of the Tribe, whether for a covered sex offense or other crime,
  - b. Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the Tribe's laws, and
  - c. Sex offenders reentering the justice system due to conviction for any crime.
2. Timing of Recapture. The Neah Bay Police Department shall ensure recapture of the sex offenders identified in subsection A, above, within the following timeframe to be calculated from the date of passage of this Code:
  - a. For Tier 1 sex offenders, 1 year,
  - b. For Tier 2 sex offenders, 180 days,
  - c. For Tier 3 sex offenders, 90 days.

### **5A.6.4 Keeping Registration Current**

1. Jurisdiction of Residency. All sex offenders required to register in this jurisdiction shall immediately appear in person at the headquarters of the Neah Bay Police Department to update any changes to their name, residence (including termination to residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall immediately inform the Neah Bay Police Department in writing delivered



to the Neah Bay Police Department SORNA officer, or his or her designee, of any changes to their temporary lodging information, vehicle information, internet identifiers (including but not limited to social networking, email, and IM addresses) and any other designations used in internet communications, postings, or telephone communications. In the event of a change in temporary lodging, the sex offender and Neah Bay Police Department shall immediately notify the jurisdiction in which the sex offender will be temporarily be staying.

2. Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within lands subject to the jurisdiction of the Tribe regardless of location that changes his or her school or otherwise terminates his or her school attendance, shall immediately appear in person at the Neah Bay Police Department to update that information. The Neah Bay Police Department shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.
3. Jurisdiction of Employment. Any sex offender who is employed by the Tribe in any capacity or who is employed within lands subject to the jurisdiction of the Tribe regardless of location that change their employment or otherwise terminate their employment, shall immediately appear in person at the Neah Bay Police Department to update that information. The Neah Bay Police Department or its designee 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, is immediately notified of the change.
4. Duties of Neah Bay Police Department. With regard to changes in a sex offender's registration information, the Neah Bay Police Department or its designee shall immediately notify:
  - a. All jurisdictions where a sex offender intends to reside, work, 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 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 Neah Bay Police Department or its designee shall also ensure this information is updated on NSOR within 12 hours of its receipt.

#### **5A.6.5 Failure to Appear for Registration and Absconding**

1. Failure to Appear. In the event a sex offender fails to register as required by this Code, the Neah Bay Police Department or its designee shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance within the Tribe's jurisdiction that the sex offender failed to appear for notification.
2. Absconded Sex Offenders. If the Neah Bay Police Department or its designee receives information that a sex offender has absconded, the Neah Bay Police Department shall make an effort to determine if the sex offender has actually absconded.

3. In the event no determination can be made, the Neah Bay Police Department or its designee shall ensure any other appropriate law enforcement agency is notified.
4. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, the Neah Bay Police Department or its designee shall inform those jurisdictions that the sex offender has failed to appear and register.
5. If an absconded sex offender cannot be located then the Neah Bay Police Department or its designee shall take the following steps:
  - a. Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located,
  - b. Notify the U.S. Marshals Service,
  - c. Seek a warrant for the sex offender's arrest. The U.S. Marshals Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest,
  - d. Update the NSOR to reflect the sex offender's status as an absconder or is otherwise not capable of being located, and
  - e. Enter the sex offender into the National Crime Information Center Wanted Person File.
  - f. Failure to Register. In the event a sex offender who is required to register due to their employment or school attendance status fails to do so or otherwise violates a registration requirement of this Code, the Neah Bay Police Department or its designee shall take all appropriate follow-up measures including those outlined in subsection b, above. The Neah Bay Police Department or its designee shall first make an effort to determine if the sex offender is actually employed or attending school within the Tribe's jurisdiction.

## **5A.7. PUBLIC SEX OFFENDER REGISTRY WEBSITE**

### **5A.7.1 Website**

1. Website. The Neah Bay Police Department or its designee shall use and maintain a public sex offender registry website.
2. Links. The registry website shall include links to sex offender safety and education resources.
3. Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
4. 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.
5. Search Capabilities. The registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and (3) zip code and/or geographic radius.

6. Dru Sjodin National Sex Offender Public Website. The Tribe shall include in the design of its website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Website and shall participate in that website as provided by the U.S. Attorney General.

### **5A.7.2 Required and Prohibited Information**

1. Required Information. The following information shall be made available to the public on the sex offender registry website:
  - a. Notice that an offender is in violation of his or her registration requirements or cannot be located if the sex offender has absconded,
  - b. All sex offenses for which the sex offender has been convicted,
  - c. The sex offense(s) for which the offender is currently registered,
  - d. The address of the sex offender's employer(s),
  - e. The name of the sex offender including all aliases,
  - f. A current photograph of the sex offender,
  - g. A physical description of the sex offender,
  - h. The residential address and, if relevant, a description of a habitual residence of the sex offender,
  - i. All addresses of schools attended by the sex offender, and
  - j. The sex offender's vehicle license plate number along with a description of the vehicle.
2. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:
  - a. Any arrest that did not result in conviction,
  - b. The sex offender's social security number,
  - c. Any travel and immigration documents,
  - d. The identity of the victim, and
  - e. Internet identifies, as identified in 42 U.S.C. § 16911.
3. Witness Protection. For sex offenders who are under a witness protection program, the Neah Bay Police Department may honor the request of the U.S. Marshals Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

### **5A.7.3 Community Notification**

1. Law Enforcement Notification. Whenever a sex offender registers or updates his or her information with the Tribe, the Neah Bay Police Department shall:
  - a. Immediately notify the FBI or other federal agency as designated by the U.S. Attorney General in order that the information may be updated on NSOR or other relevant databases,

- b. Immediately identify 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,
  - c. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment,
  - d. 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.
2. Community Notification. The Neah Bay Police Department shall ensure there is an automated community notification process in place that ensures the following:
  - a. Upon a sex offender's registration or update of information with the Tribe, the Tribe's public sex offender registry website is immediately updated,
  - b. The Tribe's public sex offender registry has a function that enables the general public to request an email notice that will notify them when a sex offender commences residence, employment, or school attendance with or within the jurisdiction of the Tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for the new information.

## **5A.8 IMMUNITY**

1. No Waiver of Immunity. Nothing in this chapter 5A shall be construed as a waiver of the sovereign immunity of the Makah Tribe, its departments, agencies, elected officials, employees, or agents.
2. Good Faith. Any person acting under good faith of this chapter 5A shall be immune from any civil liability arising out of such actions.

## **5A.9 CRIMES AND CIVIL SANCTIONS**

1. Except as provided in subsection B, a sex offender who:
  - a. Fails to register with the Neah Bay Police Department;
  - b. Fails to notify the Neah Bay Department of a change of name, residence, employment or student status as required by sections 5A.6.5,
  - c. Provides false or misleading information to the Neah Bay Police Department; or
  - d. Otherwise violates the provisions of this Title 5A, inclusive,

- e. Is guilty of a Class A offense and shall be punished as provided in the Makah Law and Order Code.
2. Subsequent Offenses. A sex offender who commits a second or subsequent violation of subsection A within 5 years after the first violation is guilty of a Class AA offense and shall be punished as provided in the Makah Law and Order Code. A court shall not grant probation to or suspend the sentence of a person convicted under this subsection B.
3. Hindrance of Sex Offender Registration. An Indian is guilty of the crime of hindering sex offender registration if he or she:
  - a. Knowingly harbors or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this chapter 5A;
  - b. Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this chapter 5A; or
  - c. Provides information to any law enforcement agency regarding a sex offender that the person knows to be false.
4. The first violation of hindering registration of a sex offender is a Class C offense and shall be punished as provided in the Makah Law and Order Code. Any subsequent violation of hindering registration of a sex offender is a Class B offense and shall be punished as provided in the Makah Law and Order Code.
5. Civil Penalty. Each violation of this chapter 5A by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including but not limited to the issuance of fines, forfeitures and civil contempt.