

TITLE 42
SEX OFFENDER REGISTRATION CODE
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TITLE 42
SEX OFFENDER REGISTRATION CODE

CHAPTER 42.01
General Provisions

42.0101 **Title.**

This Code shall be known as the Turtle Mountain Band of Chippewa Indian Sex Offender Registration Code, and applies to "all sex offenders" that have been convicted in Federal, Local, State, all jurisdictions including all Tribal jurisdictions, and shall also include offenders who were convicted either under the laws of Canada, United Kingdom, Australia, and New Zealand. This Code also applies to foreign country convictions where the U.S. State Department, in its Country reports on Human Rights Practices this includes all sex offenders that reside, go to school, are employed and/or visit the Turtle Mountain Band of Chippewa Indian Reservation.

42.0102 **Purpose.**

The Turtle Mountain Band of Chippewa Indians (hereinafter TMBCI) recognizes the need to protect tribal members, and those that live, work, visit and go to school within the jurisdiction of the Turtle Mountain Reservation and the original exterior boundaries of the Reservation. The intent of this code is to implement the federal Sex Offender Registration and Notification Act (SORNA) and shall be interpreted liberally to comply with the terms and conditions of that Act as presently written or hereafter amended. All sex offenders who visit or live within the jurisdiction of the Turtle Mountain Band of Chippewa Indians shall comply with the terms and conditions of the Turtle Mountain Sex Offender Registration Code, the offender(s). This title shall apply to:

1. Any person who has pled guilty, been found guilty of, or who has been found not guilty by reason of insanity, to any attempt, solicitation or conspiracy to commit a crime that requires or would require that person to register as a Sex Offender or Offender Against Children under tribal law, federal law, state law, other Indian tribes, commonwealth, foreign country, and any other jurisdiction, including child pornography or other electronic offenses; or
2. Sex offender(s) who are under the age of eighteen (18) years of age who are not legally emancipated, or have not been tried and found guilty as an adult shall be required to register as a sex offender within the Turtle Mountain Band of Chippewa Indian Reservation in accordance with Title 42 Turtle Mountain Sex Offender Registration Code,
3. All Sex Offender(s) who has commit a crime that requires or would require that person to register as a sex offender under Title 42 Turtle Mountain Sex Offender Registration Code, federal laws, state laws, other Indian tribes, commonwealth, foreign country, and any other jurisdiction, including child pornography or other electronic offenses.

42.0103 **Jurisdiction.**

The jurisdiction of this Turtle Mountain Sex Offender Registration Code shall include all trust and fee simple land within the boundaries of the Turtle Mountain Indian Reservation and extend to all trust land located in the State of North Dakota, such other lands as may be acquired by or on behalf of said Tribe and be added thereto under the laws of the United States, all information of registered sex offenders under this code shall be shared with the following jurisdictions: all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and all federally recognized Indian tribes.

42.0104 **Enforcement.**

For the purpose of enforcement of this TMBCI Sex Offender Registration Code,

the Turtle Mountain Jurisdiction shall be deemed to include all territory within the boundaries of the Turtle Mountain Indian Reservation, including fee patented lands, roads, water, bridges and lands used for Bureau of Indian Affairs (hereinafter BIA), purposes, and shall also include all Indian trust and restricted lands, specifically located within the State of North Dakota; all information of registered sex offenders under this code shall be shared with the following jurisdictions: all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and all federally recognized Indian tribes.

42.0105 **Need.**

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

42.0106 **Definitions.**

When the criminality of conduct depends on a child being below the age of fourteen (14), it is no defense that the actor did not know the child's age, or reasonably believed the child to be older than age of fourteen (14).

1. "ABDUCTION" means to knowingly take away a person by persuasion, by fraud, or by open force or violence.
2. "ABUSIVE SEXUAL CONTACT" means to knowingly engage in sexual contact with another person without that person's permission or is with an individual who has not attained the age of (14) fourteen years.
3. "ADJUDICATION" means the formal giving or pronouncing of a judgment or decree in a court proceeding; also the judgment or decision given. The entry of a judgment by a court in regard to the parties in a case, and it implies a hearing by a court, after notice, of legal evidence on the factual issue(s) involved. It indicates that the claims of all the parties thereto have been considered and put to rest.
4. "ABSCONDED" means any sex offender who cannot be located after making reasonable attempts.
5. "AGGRAVATED SEXUAL ABUSE" means to knowingly cause another person to engage in a sexual act by using force against that person or by threatening or placing that person in fear that any person will be subjected to death, serious bodily injury or kidnapping or attempts to do so.
6. "AT RISK" means in danger, endangered, in jeopardy, threatened, vulnerable, susceptible, exposed, helpless, and defenseless; any person may be exposed to a risk of being victimized by a sex offender.
7. "ATTEMPT AND CONSPIRACY" means any person who attempts or conspires to commit any offense under this code shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.
8. "BESTIALITY" means a person who performs sex with an animal.
9. "BIGAMY" means when a husband has (2) two or more wives or when a wife has (2) two or more husbands.
10. "BREACH OF AUTHORITY" means an employer, youth leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian, baby sitter, or a substantially similar position, police officer and/or a probation officer whom abuses their position or authority for sexual relations (of trust).

11. "CAUSING A CHILD TO VIEW OR LISTEN TO SEXUAL ACTIVITY" means to intentionally cause a child to view or listen to sexually explicit conduct if the viewing or listening is for the purpose of sexually arousing or gratifying the actor or of humiliating or degrading the child.
12. "CHILD PORNOGRAPHY" means any visual image including any photograph, film, video, picture, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct. Also knowingly producing, distributing, receiving, or possessing with the intent to distribute, a visual image of any kind, including a drawing, cartoon, sculpture or painting. Sexually explicit acts defined as real or simulated sexual intercourse containing genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, bestiality, masturbation, sadistic or masochistic abuse, or lascivious exhibition of the genitals or pubic area of any person.
13. "COERCING A MINOR TO ENGAGE IN PROSTITUTION" to engage in any sexual activity for which a person can be charged with a criminal offense.
14. "COERCION" means to exploit fear or anxiety through intimidation, compulsion, domination, or control with the intent to compel conduct or compliance.
15. "CONTROL OR CUSTODY" means temporary supervision over or responsibility for a minor whether legally or illegally obtained.
16. "CONVICTION" means that the sex offender has been subject to penal consequences based upon an order from a criminal or delinquency court. This shall include but not be limited to convictions in any tribal, federal, state and foreign courts. A juvenile offender is "convicted" for purposes of this code when prosecuted as an adult. This includes convictions of juveniles who are prosecuted as adults and those adjudicated delinquent if the offender is 14 years of age or older at the time of the offense and the offense was comparable to or more severe than aggravated sexual abuse (18 USC 2241) or was an attempt or conspiracy to commit such an offense.
17. "DEVIATE SEXUAL ACT" means any form of sexual contact with an animal or dead person.
18. "DISTRIBUTE" means administer or bestow, spread, make available, give to several people or circulate.
19. "DOMAIN NAME" means a name which locates an organization or other entity on the internet.
20. "DRU SJODIN NATIONAL SEX OFFENDER PUBLIC WEBSITE [NSOPW]". The public website maintained by the Attorney General of the United States pursuant to [U.S.C. 42 §16920].
21. "EMANCIPATE" means when a minor has achieved independence from his or her parents such as getting married before the minor reaches the age of 18 or by becoming fully self-supporting. A minor who has petitioned a court to free themselves from the control of parents and allow the minor to live on his/her own.
22. "EMPLOYEE" the term "employee" means 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 including but not limited to volunteers, interns, externs, and apprentices. Also includes all employees of the federal, state, and tribal government and any tribally owned properties, businesses and organizations included within the definition of employee for registration purposes.
23. "ENGAGING IN ILLICIT CONDUCT IN FOREIGN PLACES" means any U.S. citizen or alien admitted for permanent residence that travels in foreign commerce, and engages in any illicit sexual conduct with another person.
24. "EXCLUSION AND REMOVAL" means any Tribal member or Non-member may be temporarily or permanently excluded and/or removed from any or all portions of Indian Country under the jurisdiction of the Turtle Mountain Band of Chippewa Indians on all land on the Turtle Mountain Indian Reservation in the State of North Dakota and to such other lands as may be

- acquired by or in behalf of said Tribe and be added thereto under the laws of the United States.
25. "EXPOSING GENITALS OR PUBIC AREA" means exposing genitals or pubic area if he or she, for purposes of sexual arousal or sexual gratification, causes a child to expose genitals or pubic area or exposes his or her genital or pubic area to a child.
 26. "FALSE IMPRISONMENT" means to intentionally restrain another person without having the legal right to do so. This can literally mean physical restraint, such as locking someone in a car or tying the person to a chair. However, it is not necessary that physical force be used; threats or a show of apparent authority are sufficient.
 27. "FAILURE TO APPEAR" means in the event a sex offender fails to register with the Tribe as required by this Code.
 28. "FAILURE TO FILE FACTUAL STATEMENT ABOUT AN ALIEN INDIVIDUAL" means whoever keeps, maintains, controls, supports, or harbors in any house or place for the purpose of prostitution, or for any other immoral service any individual, knowing or in reckless disregard of the fact that the individual is an alien, shall file with the local law enforcement a statement in writing setting forth the name of such individual, the place at which that individual is kept, and all facts as to the date of that individual's entry into the United States.
 29. "FAILURE TO PROVIDE INFORMATION" means any person who is required to provide information under Title 42, the Sex Offender Registration Code, based on any conviction.
 30. "FAILURE TO REGISTER" means any sex offender who fails to register within 24 hours of entering the Turtle Mountain Band of Chippewa Indian Reservation.
 31. "FOREIGN CONVICTIONS" means the conviction is obtained from outside of the United States.
 32. "HARBORING" means to secretly provide shelter, lodging, protection to conceal or who knowingly, attempts, or assists by providing false information, shelter or residence to a person who is trying to elude the law or who is harboring a runaway.
 33. "HIV" means Human Immunodeficiency Virus and/or AIDS means Acquired Immune Deficiency Syndrome that is transmitted through direct contact of a mucous membrane or the bloodstream with a bodily fluid containing HIV that can involve anal, vaginal, or oral sex, blood transfusions, contaminated hypodermic needles.
 34. "IMMEDIATE OR IMMEDIATELY" means within 3 business days of transferring of information to all jurisdictions where the sex offender resides, is an employee, or is a student and each jurisdiction from or to which a change of residence, employment, or student status occurs. This includes notification to any relevant SORNA-registration, jurisdiction, including all 50 States, territories, tribes and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and all federally recognized Indian tribes.
 35. "IMPRISONMENT" refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state "prison" as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal "jail". Persons under "house arrest" following conviction of a covered sex offense are required to register pursuant to the provision of this code during their period of "house arrest".
 36. "INCEST" means a person who intermarries, cohabits, or engages in a sexual act with another person related to him/her within a degree of consanguinity within which marriages are declared incestuous, knowing such other person to be within said degree of relationship.
 37. "INDECENT EXPOSURE" means the display of a person's genitalia to one or more other persons in public view which might be harmless but studies have

- shown those who commit the crime are at risk of committing more serious crimes.
38. "INTERNET" means to be used broadly to include any sort of online activity.
 39. "JURISDICTIONS" means all trust and fee simple land within the boundaries of the Turtle Mountain Indian Reservation and extend to all trust land located in the State of North Dakota, such other lands as may be acquired by or on behalf of said Tribe and be added thereto under the laws of the United States, and shall include the following jurisdictions: all 50 States, territories, tribes and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands.
 40. "LACK OF CONSENT" means the acts must be committed either by threat, force and intimidation or through the use of the victim's mental or physical incapacities which can include when the victim is physically or mentally incapacitated by alcohol or drugs.
 41. "LEWD CONDUCT" means any person who intentionally performs any lewd act in a public place knowing that such conduct is likely to cause reasonable affront and alarm.
 42. "MINOR" means an individual who has not attained the age of 18 years of age; who is not legally emancipated; a minor has achieved independence from his or her parents such as getting married before reaching the age of 18 or by becoming fully self-supporting.
 43. "MISLEADING DOMAIN NAMES ON THE INTERNET" means to knowingly use a misleading domain name on the internet, embed a source with the intent to deceive a minor into viewing material that is harmful to minors on the internet consisting of nudity, sex, or excretion, that, taken as a whole and predominantly appeals to a prurient interest of minors; is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for a minor and lacks serious literary, artistic, political or scientific value for minors.
 44. "NATIONAL SEX OFFENDER REGISTRY [NSOR]". The national database maintained by the Attorney General of the United States pursuant to [42 U.S.C. § 16919].
 45. "OBJECT" means anything used in the commission of a sexual act other than the person of the actor.
 46. "OBSCENE" means an object, item, article, gadget must be prurient in nature, must be completely devoid of scientific, political, educational or social value, and must violate the local community standards.
 47. "OFFENSES INVOLVING CONSENSUAL SEXUAL CONDUCT" means offenses involving sexual conduct are not a sex offense for the purpose of this Code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least (14) years old and the offender was not more than four (4) years older than the victim.
 48. "ONLINE CHILD PORNOGRAPHY" means by use of the internet whether business, government, personal home computers, or any telecommunication device to send or receive any visual image including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct. Also knowingly producing, distributing, receiving, or possessing with the intent to distribute, a visual image of any kind, including a drawing, cartoon, sculpture or painting. Sexually explicit conduct is defined as real or simulated sexual intercourse containing genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, bestiality, masturbation, sadistic or masochistic abuse, or lascivious exhibition of the genitals or pubic area of any person.
 49. "ORGANIZATION" means a person other than one individual.
 50. "PANDERING" means:

- a. The act or crime of recruiting prostitutes or of arranging a situation for another to practice prostitution (pimp); or
 - b. The act or crime of selling or distributing visual or print media (as magazines) designed to appeal to the recipient's sexual interest.
51. "PUBLIC" means any agency, interest, property or activity which is under the authority of the government or which belongs to the people.
 52. "PUBLIC DISPLAY" means easily visible from a public road from property of others in any portion of any public facility, park or in any other public place in a manner so obtrusive as to make it difficult for an unwilling person to avoid exposure.
 53. "POSSESSION" means to own or able to control.
 54. "POSSESSION OF CHILD PORNOGRAPHY" means in the privacy of your home is not a protected activity. Accessing child pornography on the internet through peer-to-peer allows individuals to download the material directly from other people's computers by downloading, emailing, storing and sharing even at a first time status to any person faces charges not only for possession or distribution but also for sexual exploitation of a child.
 55. "PROCURING" means to obtain a sexual partner(s) for others.
 56. "PRODUCTION" means to make originate or yield, produce, direct, manufacture, issue, publish or advertise.
 57. "PRURIENT" means characterized by shameful or inordinate sexual arousal or extraordinary sexual urges.
 58. "RECKLESS ENDANGERMENT" means any person who creates a physical circumstance or situation that creates a substantial risk of neglect where sexual abuse occurs, serious bodily injury or death to any other person. Also included under Reckless Endangerment are Child Endangerment, Elderly Endangerment and Disabled/Handicap Endangerment.
 59. "RESIDENT"/"RESIDES" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps. This includes sex offenders who visit the reservation for a period of 24 hours or more.
 60. "RESIDES" means with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps.
 61. "RESTRICTIONS" means any registered sex offenders, who had been convicted of any sex related crime against child/children, shall not watch, babysit or work with any child/children under the age of 18; providing it is not their own biological child/children. Exception: Unless the crime was committed against their biological child/children than the offender, shall not be permitted to watch, babysit or work with any biological child/children under the age of 18.
 62. "REASONABLE EXPECTATION OF PRIVACY" means the person would not be visible to the public, regardless of whether that person is in a public or private place.
 63. "RE-ENTERING" means re-entering the justice system as a result of a new conviction for a sex offense or any other crime.
 64. "RECAPTURE" means the Turtle Mountain Band of Chippewa will recapture sex offenders and those sex offenders who previously have not been required to register, but will now be required to register under the Turtle Mountain Band of Chippewa Sex Offender Registry. To capture again a sex offender shall be taken back into custody due to a conviction for any crime a sex offender who is reentering the justice system due to a conviction for any crime.
 65. "RETROACTIVE" means the SORNA requirements apply to all sex offenders defined in the Act, including all convictions that predate the enactment of SORNA. Substantial compliance will require registration of offenders who previously have been convicted of a qualifying sex offense.
 66. "SADOMASOCHISTIC ABUSE" means the infliction of force, pain or violence upon a person for the purpose of sexual gratification.

67. "SEX" means acts of masturbation, sexual intercourse, or physical contact with a person's genitals, or the condition of human male or female genitals when in a state of sexual stimulation or arousal.
68. "SEX OFFENDER" means any person convicted of a sex offense, and includes but not limited to any person who has pled guilty, been found guilty of, or who has been found not guilty by reason of insanity of any sex offense under any tribal, federal, state, or foreign laws. This includes sexual offenders, or abusers as persons who committed a sex crime.
69. "SEX OFFENSE" means offenses contained in section 111(5) of SORNA, including all tribal, federal, military, and state offenses. "Sex Offense" shall include but not be limited to rape, assault with intent to commit rape, child molestation, sexual assault, sodomy, child abuse resulting from a sexual act, sexual contact, oral copulation and other sex related crimes as set forth in existing tribal, federal, or state law and shall include:
70. "SEX SLAVERY" means the organized coercion of unwilling people into different sexual practices. Sexual slavery may include single-owner sexual slavery, ritual slavery sometimes associated with traditional religious practices, slavery for primarily non-sexual purposes where sex is common or forced prostitution.
71. "SEXTING" means combination of sex and texting; it's the act of sending sexually explicit materials through mobile phones.
72. "Sex Trafficking" means the practice of people being tricked, lured, coerced or otherwise removed from their home and then compelled to work with no or low payment or on terms which are highly exploitative.
73. "SEXUAL ABUSE" means to knowingly cause another person to engage in a sexual act by threatening or placing that person in fear or engages in a sexual act if that person is incapable of appraising the nature of the conduct or physically incapable of declining participation in or communicating unwillingness to engage in that sexual act.
74. "SEXUAL ACT" means sexual contact between human beings consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any other portion of the human body; or the use of an object which comes in contact with the victim's anus, vulva, or penis. Emission is not required.
75. "SEXUAL ABUSE OF A CHILD" means a person is guilty of sexual abuse of a child if he or she willfully
 - a. Engages in any sexual contact with a child; or
 - b. Persuades, entices, counsels, or procures a child to engage in sexual contact, actual or simulated.
76. "SEXUAL BATTERY" means the act of making unwanted and sexually offensive contact with an intimate body part of another person or which causes an immediate apprehension in the other person that such an act will occur. Intimate body parts include sexual organs, the anus, the groin or buttocks of any person and the breasts of a female. Sexual Battery includes situations in which the interactions defined are with a person who is incapable of giving consent or resisting due to alcohol or drugs.
77. "SEXUAL CONTACT" means any touching of the sexual or other intimate parts of the person for the purpose of arousing or satisfying sexual or aggressive desires whether or not through the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires, and shall include any sexual touching of or contact with an individual's intimate very private, personal body parts either directly or through the clothing of the individual.
78. "SEXUAL GRATIFICATION" means a behavior or act committed to stimulate the sexual interest or desire of the actor or actors.
79. "SEXUAL HARASSMENT" means any unwanted sexual advances, a request for sexual favors, verbal or physical conduct of a sexual nature that alarms or annoys you, interferes with your privacy and creates an intimidating,

- hostile, or offensive environment. Making unwanted and offensive sexual advances or of sexually offensive remarks or acts, by a person.
80. "SEXUAL INTERCOURSE" means genital stimulation of one person with or by another and includes genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between person of the same or opposite sex.
 81. "SEXUAL MISCONDUCT" means sexual contact without consent by an acquaintance or a stranger and includes sexual touching without consent, either of the victim or when the victim is forced to touch, directly or through clothing another person's genitals, breast, groin, thighs or buttocks.
 82. "SEXUAL PREDATOR" means the term most often used to describe severe or repeat sex offenders.
 83. "SEXUALLY EXPLICIT CONDUCT" includes sexual conduct, bestiality, masturbation, sadomasochistic abuse including but not limited to flagellation, torture or bondage, or lewd exhibition of the genitals or pubic area.
 84. "SEXUALLY VIOLENT OFFENSE" means for purposes of classifying a sex offense as a sexually violent offense shall include any nonconsensual sexual assault crimes involving penetration, rape or sodomy or similar acts. These offenses shall also include any sexual act perpetrated by violence, threat of serious violence or by rendering unconscious or involuntarily drugging a victim.
 85. "SIMULATED" means any depictions of the genitals or rectal area or actions that give the appearance of sexual conduct or any means of foreplay.
 86. "SMART OFFICE" means the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the United States pursuant to [42 U.S.C. § 16945].
 87. "SOLICITATION" means the criminal offense of urging someone to commit an unlawful act and includes any direction, request, enticement, persuasion, or encouragement, of a minor to engage in sexual conduct.
 88. "STUDENT" means a person who enrolls in or attends a Private, Federal, Tribal or Public education institution, including a secondary school, trade or professional school, or an institution of higher education.
 89. "SORNA" means the Sex Offender Registration and Notification Act [Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248, 42 U.S.C. § 16911] etc. seq., as amended.
 90. "SEX OFFENDER REGISTRY" means the registry of sex offenders, and a notification program, maintained by the Turtle Mountain Sex Offender Registration and Notification department.
 91. "TERMINOLOGY" means determining substantial implementation.
 92. "TIER OFFENSES" is defined as:
 - a. "Tier 1 Sex Offender" means one that has been convicted of a "tier 1" sex offense as required in section 42.0301.
 - b. "Tier 2 Sex Offender" means one that has been either convicted of a "tier 2" sex offense as required in section 42.0302.
 - c. "Tier 3 Sex Offender" means one that has been either convicted of a "tier 3" sex offense as required in section 42.0303.
 93. "TRANSMITTING INFORMATION ABOUT A MINOR TO FURTHER CRIMINAL SEXUAL CONDUCT" means using the mail or any facility of interstate or foreign commerce knowing other individuals, or solicit any person to engage in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so.
 94. "TRAVEL WITH THE INTENT TO ENGAGE IN ILLICIT CONDUCT" means a person who travels in interstate commerce or travels for the purpose of engaging in any illicit sexual conduct with another person.
 95. "VEHICLE" shall mean any vehicle registered or not registered to the individual offender that is used for transportation.
 96. "VIDEO VOYEURISM" means the voyeur has the intent to capture an image of a private area of an individual without their consent, and knowingly does so

under circumstances in which the individual has a reasonable expectation of privacy.

97. "Visual Depiction" includes undeveloped film and videotape, data stored on computer disk or by electronic means which is capable of conversion into a visual image, and data which is capable of conversion into a visual image that has been transmitted by any means, whether stored in a permanent format.

CHAPTER 42.02
Covered Offenses

42.0201 **Covered offenses.**

This chapter covers criminal penalties located on the Turtle Mountain Band of Chippewa Indian Reservation and also includes all other Tribes, State(s), Federal, Military, Jurisdiction(s), Territories, Foreign and Juvenile or adjudication conviction.

42.0202 **Tribal offenses.**

Any person, who commits, attempts to commit or conspires to commit any sex or sexual offense shall be charged under the appropriate Titles or Sections of Title 42 Turtle Mountain Sex Offender Registration Code and Title 26 Offenses and Penalties and any other Titles hereafter.

Relevant references to Title 26: Offenses and Penalties Sexual Offenses:

1. 26.1301 (Abduction),
2. 26.1215.05 (Absconded),
3. 26.1205.01 (Abusive Sexual Contact),
4. 26.1213.01 (Aggravated Sexual Abuse of a Minor),
5. 26.1213.03 (Attempts to Commit Sexual Abuse),
6. 26.1213 (Bigamy),
7. 26.1214 (Child Pornography),
8. 26.1210 (Facilitation of Sexual Favors),
9. 26.1215.03 (Failure to Appear),
10. 26.1215.01 (Failure to file factual statement about an alien individual),
11. 26.1215.02 (Failure to Provide Information),
12. 26.1215 (Failure to Register),
13. 26.1204 (Giving Sexually Transmitted Disease [STD] to Another),
14. 26.1205 (Gross Sexual Imposition),
15. 26.1213.07 (Harboring),
16. 26.1206 (HIV and/or AIDS),
17. 26.1207 (Incest),
18. 26.1208 (Indecent Exposure),
19. 26.1303 (Kidnapping),
20. 26.1208.02 (Lewd Act in Public),
21. 26.1208.01 (Lewd Conduct),
22. 26.1214.04 (Misleading Domain names on the Internet),
23. 26.1214.05 (Misleading Words or Digital Images on the Internet),
24. 26.1215.06 (Misuse of Registration Information),
25. 26.1214.01 (Online Child Pornography),
26. 26.1214.02 (Online Child Solicitation),
27. 26.1209 (Prostitution),
28. 26.1212 (Prostitution of a Child),
29. 26.1215.04 (Recapture),
30. 26.1313 (Reckless Endangerment),
31. 26.1213.06 (Selling or buying of Children),
32. 26.1213.06 (Sexting),
33. 26.1211 (Sexual Act with an Incapacitated Person),
34. 26.1213.07 (Sexual Abuse),
35. 26.1213 (Sexual Abuse of a Minor),
36. 26.1213.02 (Sexual Abuse of a Ward),
37. 26.1214.07 (Sexual Battery),

38. 26.1305 (Sexual Exploitation of Children),
39. 26.1208.03 (Sexual Harassment),
40. 26.1213.03 (Sex Trafficking of a Minor),
41. 26.1214.03 (Travel with the intent to engage in illicit conduct),
42. 26.1213.04 (Use of interstate facilities to transmit information about a minor),
43. 26.1214.06 (Video voyeurism).

Relevant References to Title 39: Exclusion & Removal Code:

44. 39.0106 (Exclusion, Removal and Other Civil Penalties),
45. 39.0105 (Grounds for Exclusion and Removal),
46. 39.0104 (Persons Subject to Exclusion and Removal),

Relevant Reference to Title 42 Turtle Mountain Sex Offender Registration Code

47. 42.0508 (Employment/Educational Requirements),
48. 42.0802 (Civil Action),
49. 42.0802 (Civil Liability),
50. 42.0802 (Re-entering - Civil),
51. 42.0802 (Retroactivity - Civil),
52. 42.0901 (Restrictions),
53. 42.1205 (Juvenile Civil and Criminal Penalties):
 - a. Juvenile Failure to Register,
 - b. Juvenile Child Pornography (Possesses/Publication),
 - c. Juvenile Child Pornography (Distribution/Sale)
 - d. Juvenile Sexting,
54. 42.1305 (Prohibition),
55. 42.1309 (Enforcement).

42.0203

Federal offenses.

Such as, but not limited to sex trafficking of children, aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, abusive sexual contact, offenses resulting in death, sexual exploitation of children, selling or buying of children, material involving the sexual exploitation of a minor, material containing child pornography, misleading domain names on the internet, misleading words or digital images on the internet, production of sexually explicit depictions of a minor for import into the United States, transportation of a minor for illegal sexual activity, failure to file factual statement about an alien individual, and transmitting information about a minor to further criminal sexual conduct; and/or any convictions of the following, and other offenses hereafter included within SORNA:

1. 18 U.S.C. §1591 (sex trafficking of children),
2. 18 U.S.C. §2241 (aggravated sexual abuse),
3. 18 U.S.C. §2242 (sexual abuse),
4. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
5. 18 U.S.C. §2244 (abusive sexual contact),
6. 18 U.S.C. §2245 (offenses resulting in death),
7. 18 U.S.C. §2251 (sexual exploitation of children),
8. 18 U.S.C. §2251A (selling or buying of children),
9. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
10. 18 U.S.C. §2252A (material containing child pornography),
11. 18 U.S.C. §2252B (misleading domain names on the internet),
12. 18 U.S.C. §2252C (misleading words or digital images on the internet),
13. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
14. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
15. 18 U.S.C. §2422 (Coercion and Enticement of a Minor for Illegal Sexual Activity),
16. 18 U.S.C. §2423 (Transportation of Minors for Illegal Sexual Activity, etc.)
17. 18 U.S.C. §2424 (failure to file factual statement about an alien individual) and

18.18. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

42.0204 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).

42.0205 Foreign offenses.

The Turtle Mountain Band of Chippewa Indians will review documentation relating to a foreign conviction. The Turtle Mountain Band of Chippewa Indians will enforce the conviction(s) to register certain sex offenders convicted of foreign sex offenses when such offenders are convicted either: under the laws of Canada, United Kingdom, Australia, and New Zealand or any foreign country where the U. S. States Department, in its country reports on human rights practices, that an independent judiciary enforced the right to a fair trial in that country during the year in which the conviction occurred.

42.0206 State, tribal, and territory offenses.

Any individual required to register as a sex offender based upon a conviction from any state, tribe, territory or District of Columbia, and any foreign country that involves:

1. Any conduct that by its nature is a sex offense against a minor.
2. Any conduct similar to that prohibited by the following Federal Offenses.
3. Any type of degree of genital, oral, or anal penetration.
4. Any sexual touching of or contact with a person's body, either directly or through the clothing.
5. Criminal sexual conduct involving a minor (where the elements of the offenses involve physical contact with the victim), or the use of the internet to facilitate or attempt such conduct.
6. Including offenses whose elements involve using other persons in prostitution such as provisions defining crimes of "pandering," "procuring," or "pimping" in cases where the victim was under the age of 18 at the time of the offense.
7. False imprisonment of a minor.
8. Possession, production, or distribution of child pornography.
9. Solicitation of a minor to practice prostitution
10. Solicitation to engage a minor in sexual conduct (includes any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct).
11. Use of a minor in a sexual performance.

42.0207 Jurisdictional offenses.

Any sex offense committed in any jurisdiction, including: all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and all federally recognized Indian tribe that involves:

1. Any type of 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 practices prostitution,
8. Video voyeurism of 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. That 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:
 - a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion)
 - 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),
 - e. 18 U.S.C. §2244 (abusive sexual contact),
 - f. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution),
 - g. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).
- These individuals are required to register for the period of time required by the law of the jurisdiction of conviction and shall register in all jurisdictions where they live, work or attend school.

42.0208 Juvenile offenses or adjudication.

Sex offender(s) who are the age of fourteen (14) years or older, but who are under the age of eighteen (18) years of age who are not legally emancipated, or have not been tried and found guilty as an adult of a sex offense as defined by this Code, shall be required to register as a sex offender within the Turtle Mountain Sex Offender Registration and Notification Department in accordance with this Turtle Mountain Sex Offender Registry Code (Title 42).

**CHAPTER 42.03
Tiered Offenses**

42.0301 Tier I offenses.

1. Tribal Offenses Classification. "Tier 1" offenses include offenses for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 2.01, and as outlined in Section 3.01 (A), (B), (C), (D) or E. Tribal Offenses, fall within these listed requirements, shall be considered "Tier 1" offenses.
2. Sex Offenses. A "Tier I" 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 II" or "Tier III" offense.
3. Offenses Involving Minors. A "Tier I" offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 2.02(C) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
4. Certain Federal Offenses. Conviction for any of the following federal offenses or an attempt or conspiracy to commit such an offense shall be considered a conviction for a "Tier I" 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 digital 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. §2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain),
 - j. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), or
 - k. 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 Section 3.01(A), (B), or (C) shall be considered a "Tier I" offense.

42.0302

Tier II offenses.

1. Tribal Offenses Classification. "Tier 2" offenses include offenses for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 2.01, and as outlined in Section 3.01 (A), (B), (C), (D) or E. Tribal Offenses, fall within these listed requirements, shall be considered "Tier 2" offenses.
2. Recidivism and Felonies. Unless otherwise covered by Section 3.03, any sex offense that is not the first sex offense for which a person has been convicted or an attempt or conspiracy to commit such an offense and that is punishable by more than one year in jail is considered a "Tier II" offense.
 - a. Recidivist offender: a person previously convicted of a tier II offense whose current sex conviction is punishable by more than one year imprisonment.
 - b. Convictions of that involve:
 - (1) Non-parent kidnapping of a minor,
 - (2) Any sexual act with another (as defined on page 9),
 - (3) Sexual contact with a minor under the age of 13.
3. Offenses Involving Minors. A "Tier II" 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 solicitations,
 - b. Enticing a minor to engage in criminal sexual activity,
 - c. A 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.
4. Certain Federal Offenses. Conviction for any of the following federal offenses or an attempt or conspiracy to commit such an offense shall be considered a conviction for a "Tier II" offense:
 - a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
 - b. 18 U.S.C. §2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain),
 - c. 18 U.S.C. §2244 (Abusive sexual contact, where the victim is 13 years of age or older),
 - d. 18 U.S.C. §2251 (sexual exploitation of children),
 - e. 18 U.S.C. §2251A (selling or buying of children),
 - f. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
 - g. 18 U.S.C. §2252A (production or distribution of material containing child pornography),
 - h. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
 - i. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
 - j. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution),
 - k. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit 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 Section 3.02(A), (B), or (C) shall be considered a "Tier II" offense.

Tier III offenses.

1. Tribal Offenses Classification. "Tier 3" offenses include offenses for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 2.01, and as outlined in Section 3.01 (A), (B), (C), (D) or E. Tribal Offenses, fall within these listed requirements, shall be considered "Tier 3" offenses.
2. Recidivism and Felonies. Any sex offense that is punishable by one year in jail where the offender has at least one prior conviction or an attempt or conspiracy to commit such an offense for a Tier II sex offense, or has previously become a Tier II sex offender, is a "Tier III" offense.
3. General Offenses. A "Tier III" 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. Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.
4. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a "Tier III" 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),
 - d. Where the victim is 12 years of age or younger, 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 Section 3.03(A), (B), or (C) shall be considered a "Tier III" offense.

CHAPTER 42.04
Required Information

General requirements.

1. Duties. A sex offender covered by this Turtle Mountain Sex Offender Registration Code who is required to register with the Turtle Mountain Sex Offender Registration and Notification Department and shall provide all of the information detailed in this chapter. The Turtle Mountain Sex Offender Registration and Notification Department will obtain all of the information detailed in this chapter from covered sex offenders who are required to register in accordance with this code and shall implement the policies and procedures.
2. Digitization. All information shall be in digitized format that will enable it to be immediately accessed by or transmitted to various entities.
3. Electronic Database. A sex offender registry shall be maintained in an electronic database by the Turtle Mountain Sex Offender Registration and Notification department and shall be in a form capable of electronic transmission, or otherwise electronically accessible by other jurisdictions.

Criminal history.

The Turtle Mountain Sex Offender Registration and Notification Department shall obtain, 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.

42.0403 Date of birth.

The Turtle Mountain Sex Offender Registration and Notification Department shall obtain, 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.

42.0404 DNA sample.

1. DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the tribal police and/or Turtle Mountain Sex Offender Registration and Notification Department a sample of his or her DNA.
2. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile into CODIS.

42.0405 Driver's licenses, identification cards, passports, and immigration documents.

1. Driver's License. The Turtle Mountain Sex Offender Registration and Notification department shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.
2. Identification Cards. The Turtle Mountain Sex Offender Registration and Notification Department shall obtain, and a covered sex offender shall provide, a photocopy of any identification card, school student ID, University photo ID card including the sex offender's tribal enrollment card issued by any jurisdiction.
3. Passports. The Turtle Mountain Sex Offender Registration and Notification department shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.
4. Immigration Documents. The Turtle Mountain Sex Offender Registration and Notification department shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

42.0406 Employment information.

The Turtle Mountain Sex Offender Registration and Notification department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:

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

42.0407 Finger and palm prints.

Finger and Palm Prints; The Turtle Mountain Sex Offender Registration and Notification Department shall obtain, and a covered sex offender shall provide, both finger prints and palm prints of the sex offender in a digitized format, and submitted to IAFIS.

42.0408 Internet identifiers.

The Turtle Mountain Sex Offender Registration and Notification Department 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 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.

42.0409

Name.

The Turtle Mountain Sex Offender Registration and Notification Department 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.

42.0410

Phone numbers.

The Turtle Mountain Sex Offender Registration and Notification Department 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 and Fax numbers,
2. Any and all cellular telephone numbers, and
3. Any and all TTY/TDD devices.

42.0411

Picture.

1. Photograph. The Turtle Mountain Sex Offender Registration and Notification Department shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.
2. Update Requirements. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected:
 - a. Every three (3) months for Tier 3 sex offenders,
 - b. Every six (6) months for Tier 2 sex offenders, and
 - c. Every year for Tier 1 sex offenders.

42.0412

Physical descriptions

The Turtle Mountain Sex Offender Registration and Notification department shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

1. A physical description: Race, Sex, Height, weight, hair color and dyed color, eye color, contact (color)
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, piercings or tattoos.

42.0413

Professional licensing information.

Professional Licenses. The Turtle Mountain Sex Offender Registration and Notification department shall obtain all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

42.0414

Address (s) .

The Turtle Mountain Sex Offender Registration and Notification department shall obtain 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.

42.0415

School.

The Turtle Mountain Sex Offender Registration and Notification department shall obtain 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 the sex offender is or will be a student,

42.0416

Social security number.

The Turtle Mountain Sex Offender Registration and Notification department shall obtain 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.

42.0417

Temporary lodging.

Lodging Information. The Turtle Mountain Sex Offender Registration and Notification department shall obtain the following information when the sex offender will be absent from his/her residence for one (1) day or more:

1. Identifying information of the temporary lodging locations including addresses, telephone, fax numbers and names, and
2. The dates the sex offender will be staying at each temporary lodging location.

42.0418

International travel .

Travel Abroad. Sex Offenders must inform their residence jurisdictions 21 days in advance if they intend to travel outside the United States. Jurisdiction must notify the U. S. Marshals Service and immediately notify any other jurisdiction. Update also must be made to NCIC/NSOR.

42.0419

Offense information.

1. Offense Information. The Turtle Mountain Sex Offender Registration and Notification department shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.
2. SORNA Database. The text of each provision of law mentioned in Section 42.02 shall be cross linked to the SORNA Database containing the text of relevant sex related laws for all jurisdictions.

42.0420

Vehicle information.

Detailed Information: The Turtle Mountain Sex Offender Registration and Notification department shall obtain the following information related to all vehicles owned or operated by, even if the vehicle is only being borrowed for a day, the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

1. License plate numbers,
2. Registration numbers or identifiers,
3. General description of the vehicle to include color, make, model, and year, and
4. Any permanent or frequent location where any covered vehicle is kept.
5. Vehicles/Motorized transportation: Land vehicles - Work or Personal use, aircraft and/or watercraft
6. Description of all Vehicles/Motorized transportation.

42.0421

Valid passport(s) and immigration documents.

The Turtle Mountain Sex Offender Registration and Notification department shall obtain the following information:

1. All valid passports and immigration documentation from sex offender who are entering the Turtle Mountain Band of Chippewa Indian Reservation, and
2. And any passports and immigration documentation the sex offender has used in the past, valid or otherwise.

42.0422

Dental records.

The Turtle Mountain Sex Offender Registration and Notification department shall obtain all current dental records.

42.0423 **Frequency, duration and reduction.**

1. Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the Turtle Mountain Sex Offender Registry department for purposes of verification and keeping their registration current in accordance with the following time frames:
 - a. For "Tier I" offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
 - b. For "Tier II" offenders, once every 180 days for 25 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
 - c. For "Tier III" offenders, once every 90 days for the rest of their lives.
2. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:
 - a. A Tier I offender may have his or her period of registration reduced to 10 years if he or she has maintained a clean record for 10 consecutive years;
 - b. A Tier III offender may have his or her period of registration reduced to 25 years if he or she was adjudicated delinquent of an offense as a juvenile that required Tier 3 registration and he or she has maintained a clean record for 25 consecutive years.
3. Clean Record. For purposes of Chapter 4.20(B) a person has a clean record if:
 - a. He or she has not been convicted of any offense, for which imprisonment for more than 1 year may be imposed, [NOTE: Felonious tribal offenses do not count toward a clean record].
 - 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.

42.0424 **Requirements for in person appearances.**

1. Photographs. At each in person verification, the sex offender shall permit the Turtle Mountain Sex Offender Registration 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 Turtle Mountain Sex Offender Registration Department shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.
4. If any new information or change in information is obtained at an in person verification, the Turtle Mountain Sex Offender Registration Department shall immediately update the public website, if applicable, and update information in NCIC/NSOR.

42.0425 **Sex offender acknowledgement form.**

1. 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 Turtle Mountain Sex Offender Registration Department and that the sex offender understands the registration requirement.

2. The form shall be signed and dated by the Turtle Mountain Sex Offender Registration Department personnel registering the sex offender.
3. The Turtle Mountain Sex Offender Registration Department shall immediately upload the acknowledgement form into the Turtle Mountain Sex Offender Registration Department sex offender registry.

CHAPTER 42.05
Registration

42.0501 **When registration is required.**

1. **Conviction.** A sex offender must register if they were convicted of a covered sex offense regardless of the sex offender's actual or intended residency.
2. Initial registration where the offender was convicted even is the offender will not reside there.
3. Incarceration. A sex offender must register if they are incarcerated while completing any sentence for a covered sex offense arising out of a conviction, regardless of where they were convicted or reside.
4. Residence. A sex offender who resides within the external boundaries of the Turtle Mountain Band of Chippewa Indian Reservation or on any property owned by, or in trust for, the Turtle Mountain Band of Chippewa Indians, regardless of location, must register with the Turtle Mountain Sex Offender Registration and Notification Department within one (1) day or 24 hours of entering the Turtle Mountain Band of Chippewa Indian Reservation.
5. Employment. A sex offender who is employed within the external boundaries of the Turtle Mountain Band of Chippewa Indian Reservation or with any entity owned by, or considered a branch of the Turtle Mountain Band of Chippewa Indian Reservation regardless of location, must register with the Turtle Mountain Sex Offender Registration and Notification Department within one (1) day or 24 hours of entering the Turtle Mountain Band of Chippewa Indian Reservation.
6. School Attendance. A sex offender who is a student at any school within the external boundaries of the Turtle Mountain Band of Chippewa Indian Reservation is required to register with the Turtle Mountain Sex Offender Registration and Notification Department within One (1) day or 24 hours of entering the Turtle Mountain Band of Chippewa Indian Reservation.

42.0502 **Timing of registration.**

1. Timing. A sex offender required to register with the Turtle Mountain Band of Chippewa Indians under this code shall do so within the following timeframe:
 - a. If incarcerated, before release from imprisonment for the registration offense,
 - b. If not incarcerated, within one (1) day or within 24 hours of sentencing for the registration offense, and
 - c. For foreign, federal, state and military convictions, a sex offender must appear in person at the Turtle Mountain Sex Offender Department within one (1) day or within 24 hours of establishing a residence on the Turtle Mountain Band of Chippewa Indians reservation after either release from incarceration or, if not incarcerated, sentencing for purposes of complying with this Code.
 - d. The Turtle Mountain Sex Offender Registration Department shall notify all jurisdictions within 3 business days of any sex offender who is going to establish residence, employment, or school attendance within their jurisdiction.
2. Duties of the Turtle Mountain Sex Offender Registration Program shall have policies and procedures in place to ensure the following:
 - a. Inform all sex offenders who are incarcerated or sentenced of their duty to register with the Tribe,

- b. Any sex offender initially registering with the Turtle Mountain Band of Chippewa Indians is informed of their duties under SORNA and of the Turtle Mountain Sex Offender code,
- c. The sex offender will read and sign a form stating that the duty to register has been explained to them and that he or she understands the registration requirement,
- d. That the sex offender is registered, and
- e. 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.

42.0503 **Retroactive registration.**

1. Retroactive Registration. The Turtle Mountain Sex Offender Registration 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, and
 - c. Sex offenders reentering the justice system due to conviction for any crime.
2. Timing of Recapture. The Turtle Mountain Sex Offender Registration department shall ensure recapture of the sex offenders mentioned in Section 5.03(A) within the following timeframe to be calculated from the date of passage of this code:
 - a. For Tier I sex offenders, 1 year,
 - b. For Tier II sex offenders, 180 days, and
 - c. For Tier III sex offenders, 90 days.

42.0504 **Recapture.**

Procedures to recapture sex offenders regardless of their conviction date. The Turtle Mountain Band of Chippewa will recapture sex offenders and those sex offenders who previously have not been required to register, but will now be required to register under the Turtle Mountain Band of Chippewa Sex Offender Registry. To capture again a sex offender shall be taken back into custody due to a conviction for any crime a sex offender who is reentering the justice system due to a conviction for any crime.

42.0505 **Updating registration information.**

1. Duty of Offender to Update. All sex offenders required to register must immediately appear at the Turtle Mountain Sex Offender Registration Department in person to update any change in their name, residence (including termination of residency), employment, school attendance, vehicle information, temporary lodging, email addresses, telephone numbers, Instant Messaging addresses, and any other designation used in internet communications, postings, or telephone communications. In the event of a change in temporary lodging, the sex offender and Turtle Mountain Sex Offender Registration Department shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.
2. Duties of Turtle Mountain Sex Offender Registration Department. With regard to changes in a sex offender's registration information, the Turtle Mountain Sex Offender Registration and Notification department 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 Turtle Mountain Sex Offender Registration and Notification department shall also ensure this information is immediately updated on the National Sex Offender Registry (NSOR) and the sex offender registry website identified in chapter 7.

42.0506 **Failure to appear for registration and absconding.**

1. Failure to Appear. In the event a sex offender fails to register with the tribe as required by this code, the Turtle Mountain Sex Offender Registration 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, and a warrant will be issued for his/her arrest.
2. Absconded Sex Offenders. If the Turtle Mountain Sex Offender Registration department or designee receives information that a sex offender has absconded the Turtle Mountain Sex Offender Registration department shall make an effort to determine if the sex offender has actually absconded.
 - a. In the event no determination can be made, the Turtle Mountain Sex Offender Registration Department shall ensure the tribal police and any other appropriate law enforcement agency is notified.
 - b. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.
 - c. If an absconded sex offender cannot be located then the Turtle Mountain Sex Offender Registration Department shall take the following steps:
 - (1) Update the registry/public website to reflect the sex offender has absconded or is otherwise not capable of being located,
 - (2) Notify the U.S. Marshals Service,
 - (3) 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,
 - (4) Update the NCIC/NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located, and
 - (5) Enter the sex offender into the National Crime Information Center Wanted Person File.

42.0507 **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 violate a registration requirement of this code, the Turtle Mountain Sex Offender Registration and Notification Department shall take all appropriate follow-up measures including those outlined in Chapter 42.06 and Title 26.1215. The Turtle Mountain Sex Offender Registration and Notification department shall first make an effort to determine if the sex offender is actually employed or attending school within the exterior boundaries of the Turtle Mountain Band of Chippewa Indian reservation or on property owned by the Turtle Mountain Band of Chippewa Indians in fee or trust regardless of location.

42.0508 **Employment/educational requirement(s).**

For the purpose of this code all sex offenders are obligated to seek employment or obtain an education unless they have reached the age of retirement or disabled.

1. Monthly requirements: all sex offenders shall present a name and number of one (1) job contact that was made to the Turtle Mountain Sex Offender Registration office unless unrolled or going to school, already working, retired or disabled.
 - a. The Turtle Mountain Sex Offender Registration and Notification Department shall determine if the sex offenders are actually employed

or attending school and fulfilling their obligations within the requirements of this code.

CHAPTER 42.06
Verification and Appearance Requirements

42.0601 **Frequency.**

1. Frequency. A sex offender who is required to register with the Turtle Mountain Band of Chippewa Indians shall, at a minimum, appear in person at the Turtle Mountain Sex Offender Registration department for purposes of keeping registration current in accordance with the following time frames:
 - a. For "Tier 1" offenders, once every year for 15 years from the date of sentencing or if incarcerated from the date of release,
 - b. For "Tier 2" offenders, once every six (6) months for 25 years from the date of sentencing or if incarcerated from the date of release,
 - c. For "Tier 3" offenders, once every three (3) months for the rest of their lives.
2. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:
 - a. A Tier 1 offender(s) may have their period of registration and verification reduced by 5 years if they have maintained a clean record for 10 consecutive years,
 - b. A Tier 2 offender(s) may have their period of registration and verification, reduced to 10 or 15 years depending on the situation, they were adjudicated delinquent of an offense as a juvenile which required Tier 3 registration and they have maintained a clean record for 25 consecutive years.
3. Clean Record. For purposes of Section 6.01(C) a person has a clean record if:
 - a. They have not been convicted of any offense for which imprisonment for more than one (1) year may be imposed. In the case of subsequent convictions from any tribal court, the offense shall be treated as if it is punishable by more than one year in jail if a substantially similar state or federal offense is punishable by more than one year.
 - b. They have not been convicted of any sex offense,
 - c. They have successfully completed, without revocation, any period of supervised release, probation, or parole, and
 - d. They have successfully completed an appropriate sex offender treatment program certified by a jurisdiction or by the United States Attorney General.

42.0602 **Requirements for in person appearances.**

1. Photographs. At each in person verification, the sex offender shall permit the Turtle Mountain Sex Offender Registration 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 Turtle Mountain Sex Offender Registration department shall immediately notify all other registration jurisdictions of the information or change in information.

CHAPTER 42.07
Public Sex Offender
Registry Website

42.0701 **Website.**

1. Website. The Turtle Mountain Sex Offender Registration and Notification department shall maintain a public sex offender registry website.
2. Links. The TM Sex Offender registry website shall be linked under the Turtle Mountain Band of Chippewa Indian web site at www.tmbci.net - click

on Tribal Links then click on Turtle Mountain Sex Offender Registry. The Turtle Mountain Sex Offender Registry also includes links to the National Sex Offender Public Website (NSOPW) web site and educational resources for community safety.

3. Instructions. The Turtle Mountain Sex Offender Registry website includes instructions on how a person can seek correction of information that the individual contends is erroneous.
4. Warnings. The Turtle Mountain Sex Offender Registry website includes 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 on 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 Turtle Mountain Sex Offender Registry website shall have the capability of conducting searches by name, county, city, zip code, and geographic radius where it's available.

42.0702

Required and prohibited information.

1. Required Information. The following information shall be made available to the public on the Turtle Mountain Sex Offender Registry website and shall be shared with the following: all jurisdictions where a sex offender is employed, going to school or resides including all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and all federally recognized Indian Tribes.
 - a. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
 - b. All 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.
 - k. The sex offender shall report any and all transportation used such as bus, taxi, bike, motorcycle, train, subway, vehicle and etc...
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, and
 - d. The identity of the victim, and
 - e. Internet identifiers.
3. Witness Protection. For sex offenders who are under a witness protection program, the Turtle Mountain Sex Offender Registration Department may honor the request of the United States Marshals Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

42.0703

Community notifications.

1. Whenever a sex offender registers or updates their information with the Turtle Mountain Sex Offender Registration department shall:
 - a. Immediately notify the FBI and ensure the information is updated on National Sex Offender Registry,
 - b. 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.
- c. Immediately notify any and all other registration jurisdictions due to the sex offender's residency, school attendance, or employment, and
 - 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).
2. The Turtle Mountain Sex Offender Registry 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, the Turtle Mountain Sex Offender Registry department will update the public registry website immediately,
 - b. Make Email notices available "if requested" to the general public, notifying 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.
 - c. Use other notifications such as: the Turtle Mountain Star, the Turtle Mountain Times, Community Notifications, School Notifications and flyers to notify the general public, and the surrounding communities of sex offenders who move onto or off of the Turtle Mountain Band of Chippewa Indian Reservation.
 - d. All jurisdictions shall be notified when a sex offender is moving into their jurisdiction from the Turtle Mountain Band of Chippewa Indian Reservation within 3 business days. The National Sex Offender Pubic Web Site and the Turtle Mountain Sex Offender Web site will be updated with the relevant information as well.

CHAPTER 42.08
Crimes and Civil Sanctions

42.0801

Criminal offenses.

1. Criminal penalty. Each violation of a provision of this code by a sex offender who is an Indian shall be considered a crime and subject to a period of incarceration of (1) one year in jail and a fine of 5,000.00.
2. Civil Penalty. Each violation of a provision of this code by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, Exclusion, Removal and/or Banishment.
3. Customs, traditions and banishment, Exclusion/Removal.
4. Hindrance of sex offender. A person who:
 - 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 Title;
 - 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 Title; or
 - c. Provides information to law enforcement agency regarding a sex offender which the person knows to be false.
5. Bigamy
 - a. Any person who willfully and knowingly contracts in a second marriage (or going through the form of a second marriage) while the first marriage is still valid and not dissolved is guilty of Class 2 offense. This does not apply or extend to:
 - (1) a person whose spouse has been absent for [5] five successive years and is believed by him or her to be dead;

- (2) a person whose spouse has voluntarily absented him/herself and has continually remained within the United States for a time of [5] five years.
- (3) a person whose former marriage has been pronounced void or null by a competent court. The following marriages are incestuous and void:
 - (a) Marriage between parent and child including grandparents and grandchildren of every degree.
 - (b) Marriage between brothers and sisters of the half as well as whole blood.
 - (c) Marriage between uncles and nieces of the half as well as the whole blood.
 - (d) Marriage between aunts and nephews of the half as well as the whole blood.
 - (e) Marriage between first cousins of the half as well as the whole blood.

This section applies to illegitimate as well as legitimate children and relatives.

6. Giving Sexually Transmitted Disease [STD] to Another. Any person who knows or has reason to believe he/she is infected with a STD disease and infects another person with a [STD] venereal disease shall be guilty of a Class 2 offense. The Turtle Mountain Tribal Court shall have authority to order and compel the medical examination and treatment of any person found to be afflicted with any communicable Sexually Transmitted Disease.
7. Gross Sexual Imposition. Any person who engages in a sexual act with another, or who causes another to engage in a sexual act under this section is a Class 4 offense if:
 - a. The person compels the victim to submit by force or by threat of imminent death, serious bodily injury, kidnapping, to be inflicted on any human being;
 - b. The person or someone with his/her knowledge has substantially impaired the victim's power to appraise or control his or her conduct by administering or employing, without the victim's knowledge, intoxicants or other means with intent to prevent resistance.
 - c. The ability of the other person(s) to resist or consent is substantially impaired due to a mental or physical condition or because of advanced age.The victim is less than fourteen (14) years old. An offense under this section shall be guilty of a Class 4 offense.
8. Abduction. Any person who shall willfully take away or detain another person against his will shall be guilty of a Class 4 offense.
9. Abusive Sexual Contact. Any person who engages in sexual contact, with another, or who causes another to engage in sexual contact if:
 - a. The victim is less than fourteen (14) years old; or
 - b. A person compels the victim to submit by force or by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being.
 - c. In the course of the offense the offender inflicts serious bodily injury upon the victim.
 - d. The victim is not a voluntary companion of the actor and has not previously permitted the person sexual permission. A person need not prove physical resistance to the actor in prosecutions under this section. An offense under this section shall be guilty of a Class 4 offense.
10. HIV and/or AIDS. Any person who knows he/she is infected with HIV and/or AIDS and willfully exposes another to the disease or virus shall be guilty of a Class 4 offense.
11. Incest. Any person who intermarries or engages in a sexual act with another person related to him/her within a degree of family in which marriages are declared incestuous and void as defined in subsection

26.1202 knowing such other person to be within said degree of relationship, shall be guilty of a Class 4 offense.

12. Indecent exposure. Any person who:

- a. knowingly exposing one's penis, vulva, or anus in a public place with the intent to annoy, harass, or causes fear in another person; and/or
- b. Masturbates in a public place.

Under this section shall be guilty of a Class 3 offense.

13. Lewd Conduct. Motives are irrelevant; ignorance of nature no defense; unknowing definition of a crime no defense; obscene publication no defense. Any person who:

- a. makes, prints, publishes, distributes, circulates, or has in his possession for the purpose of publication, distribution or circulation any obscene written matter, picture, model, phonograph record or other thing whatever; or
- b. makes, prints, publishes, distributes, sells or has in his possession for the purposes of publication, distribution or circulation a crime comic.
- c. sells, exposes to public view or has in his possession for such a purpose any obscene written matter, picture, model, phonograph record or other thing whatever;
- d. publicly exhibits a disgusting object or an indecent show;
- e. offers to sell, advertises or publishes an advertisement of, or has for sale or disposal, any means, instructions, medicine, drug or article intended or represented as a method of causing abortion or miscarriage; or
- f. advertises or publishes an advertisement of any means, instructions, medicine, drug or article intended or represented as a method for restoring sexual virility or curing venereal diseases or diseases of the generative organs.

Any person who violates this Section shall be guilty of a Class 2 offense.

14. Lewd Act is Public. Any person who engages in the following:

- a. Exposure of any portion of the human anus or genitals, including display of the male genitals in discernible turgid state, even if completely and opaquely covered; or exposure of the female breast lower than the upper edge of the areola, provide, however, that nothing in this section shall prohibit the breastfeeding of an infant or child; or
- b. Touching caressing or fondling of the male or female genitals or female breast, whether clothed or naked; or
- c. Sexual misconduct as defined; or
- d. Simulated acts of human sex including intercourse, oral copulation, sodomy or masturbation of oneself or of one person by another.
- e. Simulated acts of human sex with the use of simulated body parts that include intercourse, oral copulation, sodomy or masturbation of oneself or of one person by another.
- f. Any person who commits a violation of this section within 500 feet of or on private or public elementary, middle, or high school property shall be guilty of a Class 4 offense.

15. Sexual Harassment. A person who engages with intent to frighten, coerce, or harass another person:

- a. By making unwanted sexual advances, requests sexual favors, verbal or physical behavior of a sexual nature that alarms or annoys, interferes with your privacy and creates an intimidating, hostile, or offensive environment; or
- b. Makes unwanted and offensive sexual advances or sexually offensive remarks or acts, by a coworker, superior or especially someone in a supervisory position when agreement to such behavior is a condition of continued employment, promotion, or satisfactory evaluation.
- c. By any unwanted sexual advances, any request for sexual favors, any verbal or physical conduct of a sexual nature that alarms or annoys other person, interferes with their privacy and creates an intimidating, hostile, or offensive environment.

d. Making unwanted and offensive sexual advances or of sexually offensive remarks or acts, by another person.

Any person who violates this section shall be guilty of a Class 3 offense.

16. Sexual Battery. A person who commits the act of making unwanted and sexually offensive contact with an intimate body part of another person or which causes an immediate apprehension in the other person that such an act will occur. Intimate body parts include sexual organs, the anus, the groin or buttocks of any person and the breasts of a female. Sexual Battery includes situations in which the interactions defined are with a person who is incapable of giving consent or resisting due to alcohol or drugs. Any person who violates this section shall be guilty of a Class 3 offense.

17. Prostitution.

a. Any person who engages, or solicits with intention to be hired to engage, in sexual activity as a business or is an inmate of a house of prostitution, or

b. Business in this subsection shall mean any transaction of sexual activity in exchange of funds or to transfer anything of monetary value.

Any person who violates this Section shall be guilty of a Class 3 offense.

18. Facilitation of Sexual Favors. Any person, who shall knowingly promote or facilitate prostitution or causes another to become engaged in sexual activity for the purpose of prostitution as defined in this Chapter, shall be guilty of a Class 3 offense.

19. Sexual Act with an Incapacitated Person. Any person who:

a. Commits or causes another to commit any act of lewd or indecent sexual conduct with any person who is incapacitated for any other reason is not able to give express and informed consent, or

b. Commits a sexual act with another who has been rendered unconscious or involuntarily drugged or who is otherwise incapable of appraising the nature of appraising the nature of the conduct or declining to participate or consent.

Any person who violates this Section shall be guilty of a Class 4 offense.

20. Prostitution of a Child. Any person who knowingly persuades, induces entices, or coerces any individual who has not attained the age of [18] eighteen years, to engages in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so shall be guilty of a Class 4 offense.

21. Aggravated Sexual Abuse of a Minor. A person who commits an act of sexual penetration with another person under any of the following circumstance:

a. The victim is less than fourteen (14) years of age.

b. The victim is at least fourteen (14) years old but less than sixteen (16) and the offender is related to the victim by blood or has supervisory or disciplinary authority over the victim or the offender is a foster parent, guardian or holds a parental status in the household.

c. The act is committed during the commission or attempted commission, either alone or with one or more persons of robbery, kidnapping, homicide, aggravated assault or another, burglary, arson or criminal escape.

d. The offender is armed with a weapon or any object fashioned as to lead the victim to reasonably believe it is a weapon and threatens by word or gesture to use the weapon or object.

e. The offender is aided by one or more persons and the offender uses physical force or coercion.

f. The offender uses physical force or coercion and severe personal injury is sustained by the victim.

g. The victim is one whom the offender knew or should have known was physically helpless, mentally defective or mentally incapacitated. [U.S.C. 2241]

Any person who violates this Section shall be guilty of a Class 4 offense.

22. Sexual Abuse of a Ward. Any person who knowingly engages in a sexual act with another person who is in a detention and/or under the custodial, supervisory, or disciplinary authority of the person engaging in any sexual conduct shall be guilty of a Class 4 offense. [U.S.C. 2243]
23. Attempt To Commit Sexual Abuse. Any person; who had the intent to cause another person to engage in a sexual act by use of force and has taken a substantial step to do so, can be convicted of attempted aggravated sexual abuse. [U.S.C. § 2241] Any person who violates this Section shall be guilty of a Class 4 offense.
24. Sex Trafficking of a Minor.
 - a. Any person who tricks, lures, coerces, promotes, recruits, transports, harbors, entices a minor causing the minor to engage in sexual acts or sexual conduct. [U.S.C. 1591]
 - b. Use a minor to trick, lure, coerce, promote, recruit, transport, harbor or entice another minor for the purpose of causing the minor to engage in sexual acts or sexual conduct.

Any person who violates this Section shall be guilty of a Class 4 offense.

25. Use of Interstate Facilities to Transmit Information about a Minor. Any person who uses the mail or any facility or means of commerce to knowingly initiate the transmission of the name, address, telephone number, social security number or electronic mail address of another individual who is a minor with the intent to entice, encourage, offer or solicit a minor to engage in any sexual activity shall be guilty of a Class 4 offense. [U.S.C. 2425]
26. Sexting. Combination of sex and texting, it's the act of sending sexually explicit materials through mobile phones.
 - a. Teenagers texting sexually explicit photographs of themselves, or of their friends or partners, can be charged with distribution of child pornography and those who receive the images can be charged with possession of child pornography.
 - (1) the exchange of sexually explicit text messages, including photographs, via cell phone.
 - b. Adults who text sexually explicit photographs of themselves, or of their friends or partners to any teenager, can be charged with distribution of child pornography and those who receive the images can be charged with possession of child pornography.
 - (1) the exchange of sexually explicit text messages, including photographs, via cell phone.

Any person who violates this Section shall be guilty of a Class 4 offense.

27. Sexual Abuse. Any person who commits abusive sexual contact
 - a. Contact sexual abuse
 - (1) By touching and fondling of the genitals of a child or juvenile or using the mouth for sexual arousal.
 - (2) By forcing, threatening, intimidating, entices, or coercing a child or juvenile to touch another person's genital area.
 - (3) Forcing, threatening, intimidating, entices or coercing a child or juvenile to engage in oral sex.

Any person who violates this Section shall be guilty of a Class 4 offense.

- b. Non-Contact sexual abuse,
 - (1) To intentionally cause a child by threats, intimidation, enticement, or to coerce a child or juvenile to view sexual acts for the purpose of becoming sexually aroused for gratification of the actor, to humiliate or degrade the child.
 - (2) To intentionally cause a child by threats, intimidation, enticement, or to coerce a child or juvenile to listen to sex acts, including audio tapes or obscene phone calls for the purpose of becoming sexually aroused for gratification of the actor, to humiliate or degrade the child.
 - (3) To intentionally cause a child by threats, intimidation, enticement or coerce a child or juvenile to view any pornographic material such as videos, DVDs, magazines or photographs through any

electronic device for the purpose of becoming sexually aroused for gratification of the actor, to humiliate or degrade the child.

Any person who violates this Section shall be guilty of a Class 3 offense.

28. Sexual Exploitation of Children. Any person, who uses, employs, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist in any other minor to engage in or who transports any minor to engage in any sexually explicit conduct:

- a. Participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct, or
- b. Participation relating to aggravated sexual abuse, sexual abuse, abusive sexual contact involving a minor or ward or sex trafficking of children, or the production, possession, receipt, mailing sale, distribution, shipment, or transportation of child pornography shall be guilty of a Class 4 offense. [U.S.C. 2251]

29. Selling or Buying of Children.

- a. Any parent, legal guardian or any person having custody or control of a minor to sell or transfers custody or control of a minor or offers to sell or transfer custody or control;

- (1) Who knows as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging or assisting another person to engage in sexually explicit conduct, or

- (2) With the intent to promote either the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct or the rendering of assistance by the minor to any person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

- b. Any person who purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor;

- (1) With the knowledge that, as a consequence of the purchase or obtaining custody, the minor will be portrayed in a visual depiction engaging or assisting another person to engage in sexually explicit conduct, or

- (2) With the intent to promote either the engaging in sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct or the rendering of assistance by the minor to any person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct. [U.S.C. 2251A]

Any person who violates this Section shall be guilty of a Class 4 offense.

30. Harboring. Any person who:

- a. Secretly provides shelter, lodging, protection to conceal a minor, who is at risk of being sexually exploited,
- b. A resident of a Turtle Mountain Housing Complex who knowing, attempts, or assists to provides shelter or residence to a sex offender,
- c. Assists a sex offender in eluding any law enforcement agency by providing false information,
- d. Secretly provide shelter, lodging, protection to conceal or who knowingly, attempts, or assists by providing false information, shelter or residence to any person trying to elude the law,
- e. Secretly provides shelter, lodging, or who knowingly, attempts, or assists by providing false information, shelter, residence or protection to conceal a minor runaway.

Any person who violates this Section shall be guilty of a Class 4 offense

31. Child Pornography. Any person who:

- a. Possesses a depiction of a child in sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited: graphic or lascivious simulated, bestiality,

masturbation or sadistic or masochistic abuse or graphic or simulated lascivious exhibition of the genitals or pubic area of any person, including

- (1) a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means,
 - (a) That shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity, or
 - (b) The dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years; or
 - (c) Any written material or visual representation that advocates or counsels sexual activity with a person under the age of eighteen years. [U.S.C. 2252A]

Any person who violates this Section shall be guilty of a Class 4 offense.

32. Online Child Pornography. Any person who:

- a. Mails or transports or ships in interest or foreign commerce by any means, including by computer, any child pornography; or
- b. Receives or distributes:
 - (1) Any child pornography that has been mailed or shipped or transported in interstate or foreign commerce by any means, including by computer; or
 - (2) Any material that contains child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer;
 - (3) Reproduces any child pornography for distribution through the mail or in interstate or foreign commerce by any means, including by computer; or
 - (4) Advertises, promotes, presents, distributes or solicits through the mail or in interstate or foreign commerce by any means, including by computer, any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material is or contains
 - (a) An obscene visual depiction of a minor engaging in sexually explicit conduct; or
 - (b) A visual depiction of an actual minor engaging in sexually explicit conduct; or
- c. The jurisdiction of this Turtle Mountain Band of Chippewa Indian Sex Offender Registration Code shall include all trust and fee simple land within the boundaries of the Turtle Mountain Indian Reservation and to all trust land located in the State of North Dakota, such other lands as may be acquired by or on behalf of said Tribe and be added thereto under the laws of the United States knowingly sells or possesses with the intent to sell any child pornography; or
 - (1) Sells or possesses with the intent to sell any child pornography that has been mailed or shipped or transported in interstate or foreign commerce by any means, including any computer, or that was produced using material that have been mailed or shipped or transported in interstate or foreign commerce by any means, including by computer;
- d. The jurisdiction of this Turtle Mountain Band of Chippewa Indian Sex Offender Registration Code shall include all trust and fee simple land within the boundaries of the Turtle Mountain Indian Reservation and to all trust land located in the State of North Dakota, such other lands as may be acquired by or on behalf of said Tribe and be added thereto under the laws of the United States knowingly possess any book, magazine, periodical, film, videotape, computer disk or any material that contains an image of child pornography; or
 - (1) Possesses in any book, magazine, periodical, film, videotape, computer disk or any other material that contains an image of child pornography that has been mailed or shipped or transported in

interstate or foreign commerce by any means , including by computer; or

- e. Distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical or other means where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct;
 - (1) That has been mailed, shipped or transported in interstate or foreign commerce by any means, including by computer;
 - (2) That was produced using material that have been mailed, shipped or transported in interstate or foreign commerce by any means, including by computer; or
 - (3) Which distribution, offer, sending or provision is accomplished using the mail or by transmitted or causing to be transmitted a wire communication in interstate or foreign commerce, including by computer for purposes of inducing or persuading a minor to participate in any activity that is illegal.

Any violation under this section shall be guilty of a Class 4 offense.

- 33. Online Child Solicitation. The use of the internet to contact or attempt to contact someone you know to be a minor or should reasonably know is a minor for sexual purposes; or to arrange to meet with someone you believe to be a minor for sexual purposes; if you arrive at the place and time arranged for the meeting of the minor shall be guilty of a Class 4 offense.
- 34. Travel With The Intent To Engage In Illicit Conduct. A person who travels in interstate commerce or travels for the purpose of engaging in any illicit sexual conduct with another person shall be guilty of a Class 4 offense.
- 35. Misleading Domain Names on The Internet. Any person who knowingly uses a misleading domain name on the Internet with the intent to deceive a minor into viewing material that is harmful to minors on the Internet.
 - a. Any communication, consisting of nudity, sex taken as a whole and with reference to its context predominantly appeals to a prurient interest of minors.
 - b. Is patently offensive to prevailing standards in the adult community with respect to what is suitable material to minors.
 - c. Lacks serious literary, artistic, political, or scientific value for minors. [U.S.C. 2252B]

Any violation under this section shall be guilty of a Class 3 offense.

- 36. Misleading Words Or Digital Images On The Internet. Any person who knowingly embeds a source code, word, or digital images into the source code of a website with the intent to deceive a minor into viewing material harmful to minors on the Internet will be guilty of a Class 3 offense.[U.S.C. 2252C]
- 37. Video Voyeurism. Any person who knowingly intends to capture an image of a private area of a person and does so under circumstances in which the person has a reasonable expectation of privacy shall be guilty of a Class 3 offense.
- 38. Failure To Register. Failure to comply with the registration requirements or notify law enforcement or the director of Turtle Mountain Sex Registration and Notification Program is a Class 4 offense, for which a penalty of up to [1] one year in jail or a fine of \$5,000, or both may be imposed.
- 39. Failure To File Factual Statement About An Alien Individual. A person or persons who keeps, maintains, controls, supports, or harbors in any house or dwelling for the purpose of prostitution, or for any other immoral service. Any individual, knowing or in reckless disregard of the fact that the individual is an alien, shall file with the local law enforcement a statement in writing setting forth the name of such individual, the place at which that individual is kept, and all facts as to the date of

that individual's entry into the United States is guilty of a Class 4 offense.

40. Failure to Provide Information. Any person who is required to provide information under Title 42, the Sex Offender Registration Code, based on any conviction and violates that section shall be guilty of a Class 4 offense and subject up to (1) one year in jail and/or a fine of up to \$5,000.00 along with court cost and fees.
41. Failure to Appear. In the event a sex offender fails to appear with the Sex Offender Registration Offender Registration and Notification Department as required by the Sex Offender Registration Code, the Turtle Mountain Sex Offender Registration Department shall immediately inform the Turtle Mountain Law Enforcement Center, and the jurisdiction that provided notification that the sex offender was to commence residency, employment or school with the Turtle Mountain Tribe, that the sex offender failed to appear for registration.
 - a. Any person who is required to appear for a scheduled appointment with the Turtle Mountain Sex Offender Registration and Notification Department, in violation of the Turtle Mountain Sex Offender Registration Code, Title 42 shall be guilty of a Class 4 offense and is subject up to (1) one year in jail and/or a fine up to \$5,000.00 along with court cost and fees.
42. Recapture. The Turtle Mountain Band of Chippewa will recapture a sex offender and those sex offenders who previously have not been required to register, but will now be required to register under the Turtle Mountain Band of Chippewa Sex Offender Registry. To be recaptured will be implemented into three categories.
 - a. A sex offender who is currently incarcerated or under supervision for the sex offense or for some other crime(s).
 - b. A sex offender who is already required to pre-existing sex offender registration requirement under the Turtle Mountain Tribal Code.
 - c. A sex offender will be taken back into custody due to a conviction for any crime whether or not the crime is a sex offense.The Turtle Mountain Law Enforcement or designee shall ensure recapture of the sex offender within the following time frames; for Tier 1 sex offenders, [1] one year; for Tier 2 sex offenders, [6] six months; and for Tier 3 sex offender, [3] three months.
43. Absconding. If the Turtle Mountain Sex Offender Registration and Notification Department receives information that a sex offender cannot be located, the Turtle Mountain Law Enforcement Center shall be notified, a Turtle Mountain Tribal warrant for arrest will be issued, and the U.S Marshall Service will be notified also the sex offender's information will be entered into [NCIC] the National Crime Information Center.
44. Misuse of Registration Information. Any person who:
 - a. Misuses or alters public record information related to a sex offender or sexual predator, or
 - b. Sells or exchanges sex offender information for profit. Any violation under this section shall be guilty of a Class 3 offense
45. Persons Subject to Exclusion and Removal. Any Tribal member or Non-member may be temporarily or permanently excluded and/or removed from any or all portions of Indian Country under the jurisdiction of the Turtle Mountain Band of Chippewa Indians on all land on the Turtle Mountain Indian Reservation in the State of North Dakota and to such other lands as may be acquired by or in behalf of said Tribe and be added thereto under the laws of the United States, with the exception of property personally owned in fee by the member or non-member as provided herein.
46. Grounds for Exclusion and Removal. A person subject to exclusion and removal as provided herein may be excluded or removed from any or all portions of Indian Country on all land on the Turtle Mountain Indian Reservation in the State of North Dakota and to such other lands as may be acquired by or in behalf of said Tribe and be added thereto under the laws of the United States, upon any one or more of the following grounds:

- a. Indians and/or non-Indians dealing, transporting (or assisting in the transport of) and/or selling drugs of any kind (and any derivative forms of such drugs), including but not limited to:
 - (1) Methamphetamine/Crank
 - (2) Cocaine
 - (3) Crack Cocaine
 - (4) Heroin
 - (5) Prescription drugs not prescribed to the person using them
 - (6) Marijuana
 - b. Indian or Non-Indians convicted in any jurisdiction of one or more crimes involving sexual violence (i.e., including but not limited to rape, incest, sexual abuse of a minor, etc.)
 - c. Non-Indians committing frauds, confidence games, or usury against Indian people residing or lawfully present within any or all portions of Indian Country under the jurisdiction of the Turtle Mountain Band of Chippewa Indians on all land on the Turtle Mountain Indian Reservation in the State of North Dakota and to such other lands as may be acquired by or in behalf of said Tribe and be added thereto under the laws of the United States, by inducing them to enter into grossly unconscionable contracts of any kind.
 - d. Non-Indians doing or threatening to commit any sexual act against a child under the age of 18 or seriously threatens the peace, health, safety, morals or general welfare of the Tribe, its members, or other persons living or lawfully within any or all portions of Indian Country under the jurisdiction of the Turtle Mountain Band of Chippewa Indians on all land on the Turtle Mountain Indian Reservation in the State of North Dakota and to such other lands as may be acquired by or in behalf of said Tribe and be added thereto under the laws of the United States.
47. Exclusion, Removal and Other Civil Penalties. A person convicted of one or more of the above offenses shall be subject to civil exclusion and removal as provided herein from Indian Country under the jurisdiction of the Turtle Mountain Band of Chippewa Indians on all land on the Turtle Mountain Indian Reservation in the State of North Dakota and to such other lands as may be acquired by or in behalf of said Tribe and be added thereto under the laws of the United States for the following periods of time: UPDATED 2006 39-6:
- a. Indians and/or Non-Indians Dealing, Transporting (or assisting in the transport of) and/or Selling Drugs of Any Kind:
 - (1) First Offense (Tribal or Federal) - warning
 - (2) Second Offense (Tribal or Federal) - three-year exclusion
 - (3) Third or further Offense (Tribal or Federal) - lifetime exclusion
 - b. Other Non-Drug-Related Grounds for Removal of Non-Indians Only:
 - (1) First Offense - Warning
 - (2) Second Offense - Second Warning
 - (3) Third Offense - Six Month Exclusion
 - (4) Fourth Offense - One Year Exclusion
 - (5) Fifth or further Offense - Five Year Exclusion for each offense
 - c. Indians and/or Non-Indians Convicted of Repeated Sex Crimes
 - (1) First Offense - Warning
 - (2) Second Offense - One Year Exclusion
 - (3) Third Offense - Lifetime Exclusion
 - d. Non-Indian Non-Indians doing or threatening to do any sexual act against a Indian within any or all portions of Indian Country under the jurisdiction of the Turtle Mountain Band of Chippewa Indians on all land on the Turtle Mountain Indian Reservation in the State of North Dakota.
 - (1) First Offense - Warning
 - (2) Second Offense - One Year Exclusion
 - (3) Third Offense - Lifetime Exclusion
48. Reckless Endangerment. A person is guilty of the offense if that person creates a physical circumstance or situation that creates a substantial

risk of neglect where sexual abuse occurs, serious bodily injury or death to any other person. The offense is a Class 4 offense if the circumstances created demonstrate an extreme indifference to the value of human life; otherwise it is a Class 3 offense. To satisfy the "creates a physical circumstance or situation" requirement, no actual person need actually be placed in actual jeopardy of receiving serious bodily injury or death but only the potential of such injury had a person been exposed to the circumstance or situation.

49. Child Endangerment. For the purpose of this code any person who has legal care, custody or guardianship of child/children under the age of eighteen (18), who intentionally or knowingly allows a sex offender to care for said child/children and a sex offense occurs during the time the sex offender was in the care of said child/children; that guardian, parent, custody or legal care person shall be charged with: Child Endangerment.

Any person who violates this Section shall be guilty of a Class 4 offense.

50. Elderly Endangerment. For the purpose of this code any person who has legal care, custody or guardianship of an Elderly person, who intentionally or knowingly allows a convicted sex offender to care for said elderly person and a sex offense occurs during the time the sex offender was in care of that elderly person; that guardian, parent, custody or legal care person shall be charged with: Elderly Endangerment.

Any person who violates this Section shall be guilty of a Class 4 offense.

51. Disabled/Handicap Endangerment. For the purpose of this code any person who has legal care, custody or guardianship of an Handicap/ Disabled person, who intentionally or knowingly allows a convicted sex offender to care for said Handicap/Disabled person and a sex offense occurs during the time the sex offender was in care of that Handicap/Disabled person; that guardian, parent, custody or legal care person shall be charged with: Disabled/Handicap Endangerment.

Any person who violates this Section shall be guilty of a Class 4 offense.

42.0802 Civil actions and liability.

1. Definitions.

- a. "CIVIL" action is prosecuted by one party against another for the enforcement or protection of a right or the redress or prevention of a wrong. When the violation of a right admits of both a civil and criminal remedy, the right to prosecute the one is not merged in the other.
- b. "RE-ENTERING" Any person who re-enters the system with a sex related crime in the past as well as the present will be brought back into the system and be required to register as a sex offender with the Turtle Mountain Band of Chippewa Indian.
- c. "RETROACTIVITY" extending in scope or effect to a prior time or to conditions that existed or originated in the past; especially made effective as of a date prior to enactment, promulgation, or imposition.

2. Civil actions.

- a. Civil actions are those causes, within the jurisdiction of the Tribal Court, originating in Tribal law, including Tribal custom or tradition as defined by statute or by Tribal Court rule or decision,
- b. Bases for civil actions: A civil action arises out of an injury, which was the result of a sex related crime committed against another person.
- c. Laws applicable in civil actions in all civil actions, the Tribal Court shall first apply the applicable laws, Ordinances, customs of the Turtle Mountain Band of Chippewa Indians.

42.0803 Civil liability.

Any sex related crime; intentional, offensive or physical;

1. Re-entering - Any person with a sex related crime in the past will be brought back into the system and be required to register as a sex offender with the Turtle Mountain Band of Chippewa.
2. Retroactivity - Any person with a sex related crime in the past as well as the present shall register as a sex offender.

CHAPTER 42.9
Restrictions

42.0901 **Restrictions.**

Sex offenders pose a high risk of reoffending more than anyone else if put in a situation of watching, babysitting or working with child/children.

1. Registered sex offenders, who have been convicted of any sex related crime against child/children, shall not be permitted to watch, babysit or work with any child/children under the age of 18; providing it is not their own biological child/children.

Exception: Unless the crime was committed against their biological child/children than the offender, shall not be permitted to watch, babysit or work with any biological child/children under the age of 18.

2. Anyone person who violates this Section shall be guilty of a class 3 offense; unless there was a victim as a result under this Section then it is a class 4 offense.

CHAPTER 42.10
Immunity

42.1001 **No waiver of immunity.**

No Waiver. Nothing in the Turtle Mountain Sex Offender Code shall be construed as a waiver of sovereign immunity for the Turtle Mountain Band of Chippewa Indians, its departments, agencies, employees, or agents.

42.1002 **Good faith.**

Good Faith Immunity: Any person acting in good faith under the terms of this Turtle Mountain Sex Offender Registration Code shall be immune from any civil liability arising out of such actions.

CHAPTER 42.11
Exemptions

42.1101 **Exemptions.**

Any person who is no longer required to register as a sex offender by way of a court order from the jurisdiction wherein the conviction occurred shall be exempt from these provisions. The burden shall be on the individual sex offender to prove that the exemption is applicable.

This title shall not apply to:

1. Offenses involving Consensual Sexual Conduct. Offenses involving consensual sexual conduct are not a sex offense for the purposes of this Code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense; or
2. The victim was at least fourteen (14) years old and the offender was not more than four (4) years older than the victim; or
3. A juvenile offender who has received a suspended imposition of sentence.

CHAPTER 42.12
Juvenile Offenders

42.1201 **Applicability.**

Sex offender(s) who are the age of fourteen (14) years or older, but who are under the age of eighteen (18) years of age who are not legally emancipated, or have not been tried and found guilty as an adult of a sex offense as defined by this Code shall be required to register as a sex offender within

the Turtle Mountain Sex Offender Registration and Notification Department in accordance with Title 42 - Turtle Mountain Sex Offender Registry Code.

42.1202 Registration Requirements.

Juvenile sex offenders must register in accordance with the Turtle Mountain Sex Offender Registration Code, and will be placed on the Turtle Mountain Sex Offender Web Site.

42.1203 Community Notification.

1. Public notification may be required for sex offenses committed by juveniles, so long as said offenders were in fact tried as juvenile offenders, and such information shall remain confidential unless otherwise authorized or ordered by the Turtle Mountain Tribal Court.
2. The Turtle Mountain Tribal Court may, require public notification of juvenile offenders within the Court's discretion, however, the Turtle Mountain Tribal Court must make specific findings as to:
 - a. The age of the offender;
 - b. the violent nature of the crime committed;
 - c. any evidence of premeditation;
 - d. the risk of recidivism based upon a psychological evaluation and risk assessment; and
 - e. The need for community awareness to prevent further same or similar criminal acts by the juvenile offender.

42.1204 Civil Penalties and Enforcement.

Any juvenile offender required to register as a sex offender who shall fail to do so in a timely manner shall be subject to a civil penalty of up to one (1) year in jail and/or a fine of up to \$5000.00 plus court costs and fees. In addition to the foregoing the Court may, in its discretion impose one or more of the following civil penalties for failure to register:

1. Which shall include but not be limited to:
 - a. Any other form of law deemed appropriate.
 - b. Community Service.

42.1205 Juvenile Sex Offender(s).

Who are the age of fourteen (14) years and older but who are under the age of eighteen (18) years of age who are not legally emancipated, or have not been tried and found guilty as an adult of a sex offense as defined by the Code shall be required to register as a sex offender within the jurisdiction of the Turtle Mountain Band of Chippewa Indians, or have not been tried and found guilty as an adult shall be required to register as a sex offender within the Turtle Mountain Band of Chippewa Indian Reservation in accordance with this Code.

1. Registration Requirements. Each secondary and/or post-secondary school within the original exterior boundaries of the Turtle Mountain Chippewa Indian Reservation, where the juvenile attends will be notified of the child's status on the sex offender registry.
2. Civil and Criminal Penalties.
 - a. Failure to Register -Any juvenile offender required to register as a sex offender who shall fail to do so in a timely manner shall be subject to a civil penalty of up to one (1) year in jail and/or a fine of up to \$5000.00 plus court costs and fees. In addition to the foregoing the Turtle Mountain Tribal Court may, in its discretion impose one or more of the following civil penalties for failure to register:
 - (1) Community Service;
 - (2) Mandatory Counseling
 - (3) Probation
 - (4) Loss of driver's license to include class M for motorcycle.
 - b. Child pornography (Possesses, Prints, Publishes, and Makes), any person who makes, prints, publishes or possesses for the purpose of

publication any child pornography is guilty of

- (1) An indictable offense and liable to imprisonment for a term not exceeding one (1) year in jail and/or a fine of up to \$5000.00 plus court costs and fees. In addition to the foregoing the Turtle Mountain Tribal Court may, in its discretion impose one or more of the following civil penalties for failure to register:
 - (a) Community Service;
 - (b) Mandatory Counseling
 - (c) Probation
 - (d) Loss of driver's license to include class M for motorcycle.
 - (2) An offense punishable on summary conviction.
- c. Child pornography (Possesses, Imports, Sells or Distributes), any person who imports, distributes, sells or possesses for the purpose of distribution or sale any child pornography is guilty of
- (1) an indictable offense and liable to imprisonment for a term not exceeding one (1) year in jail and/or a fine of up to \$5000.00 plus court costs and fees; or
 - (2) An offense punishable on summary conviction.
- d. SEXTING, Any person Sexting sexually explicit photographs of themselves, their friends or their acquaintance shall be charged with:
- (1) Distribution of child pornography, and
 - (a) an indictable offense and liable to imprisonment for a term not exceeding one (1) year in jail and/or a fine of up to \$5000.00 plus court costs and fees.
 - (2) Anyone who receives the image(s) is guilty of possession of child pornography.
 - (a) an indictable offense and liable to imprisonment for a term not exceeding one (1) year in jail and/or a fine of up to \$5000.00 plus court costs and fees.

CHAPTER 42.13 Schools

42.1301

School.

All Sex Offender shall not reside or enter, within 500 feet of any Day Care(s), Public or Private school(s), or any and all property/zone(s) owned or used by any schools: including any or all kindergarten schools and all grade schools from Head Start to 12th grade; this includes, playgrounds and games of any sort.

42.1302

Definitions.

When used in this code, the terms, phrases, words and derivations shall have the meanings set forth thereafter. When not inconsistent with the context, words in the plural number include the singular and words in the singular number include the plural.

42.1303

Child safety zone(s)/property.

All Schools, Head Starts, Daycares, parks, playgrounds, recreation centers, gymnasiums, sports fields, or sports facilities, this includes any and all property/zone(s) owned or used by any School(s) or Daycare facilities which is under the jurisdiction of any department, agency, or authority of the Turtle Mountain Band of Chippewa Indians, including, but not limited to, all trust and fee simple land within the boundaries of the Turtle Mountain Indian Reservation and extending to all trust land located in the State of North Dakota, such other lands as may be acquired by or on behalf of the Turtle Mountain Band of Chippewa Indians and be added thereto under the laws of the United States. This Code also includes any and all buildings, land, parking areas or other improvements located on the same parcel on which each of the aforementioned facilities is located, but does not include any public street, and also does not include any public sidewalk which is located on the outside

boundary of a child safety zone(s). This child safety zone shall include any airway or underground accesses.

42.1304

Sex offender.

A sex offender is:

1. A person who has been convicted or found not guilty by reason of mental disease or defect in any other state, in a Federal, Tribal, State, or Military court or in any foreign jurisdiction, of any crime, the essential elements of which are substantially the same as any of the crimes, and which requires registration as a sexual offender in such other state or in the federal, tribal, state, or military system, and who resides or visits the Turtle Mountain Band of Chippewa Indian Reservation on and after 11/10/10;
2. Has been convicted or found not guilty by reason of mental disease or defect of any one or more of the following offenses as defined:
 - a. Statutes
 - (1) a criminal offense against a victim who is a minor;
 - (2) a nonviolent sexual offense,
 - (3) a sexually violent offense, or
 - (4) any felony that the court finds was committed for a sexual purpose
3. Has been convicted or found guilty of any one or more of the following offenses as defined:
 - a. Statutes
 - (1) a criminal offense against a victim,
 - (2) a nonviolent sexual offense,
 - (3) a sexually violent offense, or
 - (4) any felony that the court finds was committed for a sexual purpose

All offenders who were convicted for a sex crime or sex related crime will follow all regulations rules within Title 42 - Turtle Mountain Sex Offender Registration Code.

42.1305

Prohibition.

1. It shall be unlawful for a sex offender to be present in any Child Safety Zone(s)/property.
2. All sex offenders are prohibited from being within 500 feet of any
 - a. School(s) and all property owned or used by any schools: this includes parks, playgrounds, recreation centers, gymnasiums, sports fields, or sports facilities, school activities,
 - b. Head Start(s) and all property owned or used by any Head Start(s): this includes parks, playgrounds, recreation centers, gymnasiums, sports fields, or sports facilities, school activities,
 - c. Daycare(s) and all property owned or used by any/all daycare(s): this includes parks, playgrounds, recreation centers, gymnasiums, sports fields, or facilities that the daycare(s) utilizes,
 - d. Private Home(s) or Facilities being used for the purpose of caring for a group of children.
3. Any person in violation of this code shall serve 10 day(s) to a 180 day(s) and be fined in the amount of twenty five hundred dollars (\$2,500.00) for each violation.

42.1306

Registrants living near schools.

1. All sex offenders are prohibited from living within 500 feet of any school, and all zone(s)/property owned or used by any schools on and after 11/10/10.
2. The below criteria must be met along with a confirmation from Corrections classifying the person as a Risk to children.
 - a. Anyone who has a prior crime conviction for a sex crime against children cannot live within the above listed limits. "Law Enforcement" will force him/her to move out of the restricted area.
 - b. Anyone on Probation who has been convicted of a sex related offense against children.

- c. Anyone who has been convicted of any kind of sex related offense(s).
 - d. Upon registration, the registrant must disclose if he/she is involved in any activity where they are in constant contact with children, (i.e. park, school, etc.). Upon that disclosure, the Turtle Mountain Sex Offender Registration and Notification Department will notify the public if necessary.
3. All sex offenders are prohibited from: living within 500 feet of any school, school activity, Public Park(s), and all zone(s)/property owned or used by any schools and this list may not be all inclusive.

42.1307 **Exclusions.**

This Code/Ordinance shall not apply:

1. To any person whose name has been removed from the Turtle Mountain Sex Offender Registry or from the registry of any other state, federal, tribal or military system by act of a court or by expiration of the term such person is required to remain on such registry.
2. To any sex offender who enters into a child safety zone. The sex offender will need permission to enter into a facility in a School safety Zone(s)/property. The sex offender will need to 'call ahead and make arrangements with the proper school officials to enter into a facility in a School safety Zone(s)/property for the sole purpose of voting, election or referendum provided that the person leaves the facility immediately after voting. The sex offender will be accompanied by a school official at all times while the sex offender is in the school safety zone/property.
3. To any sex offender who enters into a child safety zone. The sex offender will need permission to enter into a facility in a School safety Zone(s)/property. The sex offender will need to call ahead and make arrangements with the proper school officials to enter into a facility in a School safety Zone(s)/property for the purpose of dropping off or picking up his or her own child. The sex offender will be accompanied by a school official at all times while the sex offender is in the school safety zone/property.
4. To any sex offender who enters into a child safety zone. The sex offender will need permission to enter into a facility in a School safety Zone(s)/property. The sex offender will need to call ahead and make arrangements with the proper school officials to enter into a facility in a School safety Zone(s)/property for the purpose of meeting with a teacher, administrator or nurse, to discuss his or her own child's medical or educational issues, provided that the sex offender leaves the child safety zone immediately completing the meeting or discussion. The sex offender will be accompanied by a school official at all times while the sex offender is in the school safety zone/property.
5. To the extent that the conduct prohibited by this code is in conflict with any sentence or order of probation or parole imposed upon a sex offender.

42.1308 **Notice.**

All sex offenders who violate this Code shall be punished according to the laws of the Turtle Mountain Band of Chippewa Indians under Title 42 Sex Offender Registration Code and Chapter 26 Offenses and Penalties or Title 39 Exclusion and Removal Code.

42.1309 **Enforcement.**

If a police officer reasonably believes that a sex offender is in a Child Safety Zone/property, the officer shall remove the offender(s) from the Child Safety Zone(s)/property. The offender is in violation of this Code, and shall be charged with the violation listed below.

1. Any person in violation of this code shall serve 10 day(s) to a 180 day(s) and be fined in the amount of twenty five hundred dollars (\$2,500.00) for each violation. 11/10/10

42.1310 **Severability.**

Any provision of this Code held to be unconstitutional or superseded by the Turtle Mountain Band of Chippewa Indians or regulation shall not serve to invalidate the remaining unaffected provisions hereof. No provision of this Code shall serve to validate any activity otherwise prohibited by the Turtle Mountain Band of Chippewa Indians or lawfully enacted by this code.

CHAPTER 42.14
Turtle Mountain Housing

42.1401 **Housing policies.**

Eligibility and Admission Rules. Rule #2 Ineligibility for Admission (pg. 13 of 14 letters F&G)

1. Ineligibility for Admission.
Applicants and their household composition member(s) will be considered ineligible for the rental program if there is:
 - a. An incomplete application or an application with false information;
 - b. An outstanding debt with the Housing Authority, owned by the applicant and/or the household composition member(s). excluding an elderly applicant who has entered into a repayment agreement;
 - c. Any member of the household has a conviction of drug-related criminal activity unless successful completion of a certified rehabilitation program (Tribal or State recognized);
 - d. Any member of the household convicted of violent criminal activity, within the past three (3) years;
 - e. Any member of the household convicted of gang activity or gang related activity, within the past three (3) years;
 - f. Any member of the household is subject to a life time requirement under a sex offender registration program, who has registered after December 11, 2003;
 - g. Any member of the household is currently under a sex offender registration program that is less than a lifetime registration requirement, who has registered after December 11, 2003;
 - h. Any household member's abuse or pattern of abuse of alcohol interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.
2. If an applicant is placed on the waiting list and it is found that circumstances have changed and the applicant is no longer eligible for admission based upon the above reasons, they will be notified in writing and will be removed from the waiting list.

CHAPTER 42.15
Visitors

42.1501 **Visitor(s); Sex offender requirements.**

All sex offenders who **visit** within the jurisdiction of the Turtle Mountain Band of Chippewa Indian Reservation shall comply with the terms and conditions of Title 42 Turtle Mountain Sex Offender Registration Code; all sex offenders

1. Shall notify the Belcourt Law Enforcement Department at (701) 477-6134 and register with the Turtle Mountain Sex Offender Registration and Notification Department [(701) 477-8375 ext.10 or 11] within **one (1) day** or within 24 hours of entering the Turtle Mountain Band of Chippewa Indian Reservation, and
2. Are required to report the following information:
 - a. If the offender leaves his/her place of temporary lodging location, the offender shall report the change of lodging information within one (1) day or within 24 hours, and
 - b. The offender shall provide all of the following information to the Turtle Mountain Sex Offender Registration and Notification Department when entering the Turtle Mountain Band of Chippewa Indian Reservation.

- (1) All temporary lodging locations, including
 - (a) Residential Address: residence at which the offender resides or will reside.
 - (b) If different, location or description that identifies where the offender "habitually lives".
 - (c) Dates the sex offender will be staying at each temporary lodging location.
 - (d) Sex Offenders Name(s):
 - i. Primary, given
 - ii. Nicknames, aliases, pseudonyms generally, regardless of context
 - iii. Ethnic or Tribal name by which offender is commonly known
 - (e) Physical Description:
 - i. Race, sex, height, weight, hair color and dyed color, eye color, contacts (color)
 - ii. All identifying marks, such as scars, tattoos, etc..
 - (f) Driver's License, ID card and etc..
 - i. Photocopy of all driver's licenses and identification cards issued by all jurisdictions.
 - (g) Professional Licensing Information
 - i. Concerning all licensing of the offender that authorizes the offender to engage in an occupation or carry out a trade or business.
 - (h) Passports and Immigration Documents:
 - i. Digitized copy of passport
 - ii. Digitized copy of immigration documents
 - (i) Date of Birth:
 - i. Actual, date of birth
 - ii. Purported date of birth
 - (j) Phone Numbers:
 - i. Telephone numbers, and other designations used for routing or self-identification in telephone communications
 - ii. Land line phone number
 - iii. Cell phone numbers
 - iv. Fax numbers and names
 - (k) Photograph:
 - i. Current photograph
 - (l) Social Security Number:
 - i. Valid Social Security number
 - ii. All purported Social Security numbers
 - (m) Vehicle Information:
 - i. License plate number
 - ii. Registration number
 - iii. Color, make, model, and year of the vehicle
 - iv. For all vehicles owned or operated by offender whether for work or personal use, including land vehicles, aircraft, and watercraft
 - v. Where the vehicle is frequently kept
 - (n) Criminal History:
 - i. Date of all arrests
 - ii. Date of all convictions
 - iii. Status of parole, probation, or supervised release
 - iv. Registration status
 - v. Outstanding arrest warrants
 - (o) DNA Sample
 - i. Taken from offender
 - (p) Employment Information:
 - i. Name of Employer
 - ii. Address of Employer

- iii. Any place employed or will be employed, including volunteer or unpaid work
- iv. Transient or day labor information is collected
- (q) Finger and Palm Prints:
 - i. Current Finger and Palm Prints
- (r) All Internet Identifiers:
 - i. Email addresses
 - ii. Instant Message addresses or identifiers
 - iii. Any other message addresses or identifiers
 - iv. All designation used for routing or self-identification on the internet
- (s) Dental Records
 - i. Current dental records

CHAPTER 42.16
APPENDIX
LEGISLATIVE HISTORY

On July 27, 2006, the President of the United States signed into law the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901-16969), also known as the Sex Offender Registration and Notification Act (SORNA), which established a comprehensive national system for the registration of sex offenders. Section 127 of the Act requires each federally recognized Indian tribe that possesses criminal jurisdiction to either implement the provisions of the Act under its own authority or to allow the state government to implement it on the reservation.

In Resolution No. TMBC0311-07-07 (July 6, 2007), the Turtle Mountain Band of Chippewa Indians elected to carry out the duties of a jurisdiction under the Adam Walsh Act, rather than to allow the state of North Dakota to implement the Act within the Turtle Mountain Band of Chippewa Indian Reservation.

The Turtle Mountain Band of Chippewa Indians enacted the Turtle Mountain Sex Offender Registration Code in Resolution No. TMBC958-10-10 (November 10, 2010) to comply with Title I of the Adam Walsh Act. Resolution No. TMBC958-10-10 (November 10, 2010) specified that this Code and the associated manual be implemented by all relevant departments "forthwith", and for the purposes of complying with the tribe and SORNA.