

PUEBLO OF SANTA ANA

PUEBLO OF SANTA ANA TRIBAL COUNCIL

RESOLUTION NO. 16-R-16

ADOPTING THE AMENDED SEX OFFENDER REGISTRY CODE

WHEREAS, the Pueblo of Santa Ana is a federally recognized Indian tribe governed under a traditional form of government, and possessing all the inherent sovereign powers of self-government; and

WHEREAS, the Tribal Council of the Pueblo is the duly recognized decision and policy making body for the Pueblo; and

WHEREAS, in July 2006, Congress enacted the Sex Offender Registry and Notification Act as part of the Adam Walsh Child Protection and Safety Act of 2006, P.L. 10-248 (the "Adam Walsh Act") and pursuant to that Act, all jurisdictions in the United States are required to maintain registries of sex offenders; and

WHEREAS, the Tribal Council adopted a Sex Offender Registry Ordinance on April 14, 2011, pursuant to Ordinance Number 11-O-01, and thereafter established the SORNA Committee to recommend amendments to the Ordinance to the Tribal Council; and

WHEREAS, the SORNA Committee has recommended that sex offenders whose victims were minors be excluded or restricted from certain areas on Pueblo lands; that sex offenders who are not otherwise required to register but who will be on Pueblo lands for more than twelve hours be required to report their presence to the Santa Ana Pueblo Tribal Police Department; that all registered sex offenders be subject to additional restrictions; that criminal sanctions be imposed on Indian sex offenders and other Indians who violate the Sex Offender Registry Code, and that civil sanctions be imposed on non-Indians who violate the same; that exclusion and banishment procedures be established for sex offenders who commit repeated, serious violations of the Sex Offender Registry Code; and that all businesses operating on Pueblo lands be required to check current and prospective employees against the National Sex Offender Registry; all as set forth in the attached amended Sex Offender Registry Code; and

WHEREAS, the Tribal Council has determined that it would be in the best interest of the Pueblo to approve and adopt the SORNA Committee's recommendations, in the form attached hereto, and to authorize the SORNA Committee to make future amendments to the Sex Offender Registry Code that are required pursuant to the Adam Walsh Act without having to bring any such amendments to the Tribal Council first, provided that the Committee shall work with the Governor's Office and the Pueblo's special counsel on any such amendment;

NOW THEREFORE BE IT RESOLVED, by the Tribal Council of the Pueblo of Santa Ana as follows:

1. The amended Sex Offender Registry Code, in the form attached hereto, be and the same is hereby enacted as part of the Pueblo of Santa Ana Tribal Code, and the same shall be promulgated to the Tribal Courts, the Santa Ana Police Department, and other interested parties.

2. The SORNA Committee is hereby authorized to make future amendments to the Sex Offender Registry Code that are required pursuant to the Adam Walsh Act without having to bring any such amendments to the Tribal Council first, provided that the Committee shall work with the Governor's Office and the Pueblo's special counsel on any such amendment, and that any such amendment shall be promulgated to the Tribal Courts, the Santa Ana Police Department and other interested parties.

3. The Governor or his designee is hereby authorized to carry out the intent of this resolution.

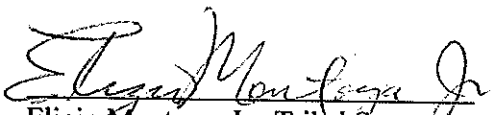
CERTIFICATION

I, the undersigned, as Governor of the Pueblo of Santa Ana, hereby certify that the Pueblo of Santa Ana Tribal Council, at a duly called meeting convened on the 14th day of April, 2016, at the Pueblo of Santa Ana, at which a quorum was present, approved the foregoing Resolution, and that 32 voted for and 0 were opposed.

GOVERNOR

Myron Armijo

ATTEST:


Eligio Montoya, Jr., Tribal Secretary

ARTICLE 21 - SEX OFFENDER REGISTRY

Sec. 8-21-1 Purpose.

The purpose of the Sex Offender Registry is to protect the community of the Pueblo of Santa Ana from sex offenders by requiring sex offenders to register with the Pueblo of Santa Ana and by making certain registration information available to law enforcement agencies and the public.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-2 Declaration of Policy.

The Pueblo of Santa Ana Tribal Council finds that:

- A. Individuals who are convicted of sex offenses have a high rate of recidivism and therefore pose a risk to the Pueblo of Santa Ana community, especially children.
- B. Requiring sex offenders to register with the Pueblo of Santa Ana and making certain information about the sex offender available to law enforcement agencies and the public is an effective way to protect the Pueblo of Santa Ana community.
- C. Requiring sex offenders to register with the Pueblo of Santa Ana and making certain information about the sex offender available to law enforcement agencies and the public is not punitive or criminal punishment but rather is civil in nature.
- D. Through Tribal Council Resolution No. 07-R-23 (May 31, 2007), the Pueblo of Santa Ana has asserted jurisdiction to develop and implement a sex offender registry pursuant to Title I, Sex Offender Registry and Notification Act, of the Adam Walsh Child Protection and Safety Act, P.L. 109- 248 (hereinafter "SORNA").

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-3 Definitions.

The following definitions apply only to this Article, and shall not apply to any other Section of the Pueblo of Santa Ana Code unless expressly adopted by that other Section or other law of the Pueblo.

A. The term "convicted" as applied to an adult sex offender shall mean the offender has been subjected to penal consequences based on the conviction, however the conviction may be styled. A conviction that has been reversed, vacated, or set aside is not treated as a conviction for purposes of this Article. A person who has been pardoned for an offense on the ground of innocence has not been convicted of that offense. The term includes convictions of juveniles who are prosecuted as adults, and adjudications of delinquency in the circumstances described in Sec. 8-21-8(F).

B. The term "criminal offense" shall mean a tribal, local, state, federal, foreign or

Exhibit

to Resolution Adopting the Amended Sex Offender Registry Code

military offense (to the extent specified by the United States Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119), or other criminal offense.

C. The term "employee" includes an individual who is self-employed or works for any other entity, whether compensated or not, and includes volunteers.

D. The term "exclusion zone" means a place primarily intended for the use of children, including but not limited to daycare centers, schools, playgrounds, soccer fields, baseball fields, or a location where an event is offered primarily for children, such as an Easter egg hunt or Halloween party for children.

E. The term "imprisonment" shall mean 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 confinement in a state "prison" as well as a federal, military, tribal, or local "jail" or contract facility, for example. Imprisonment includes "house arrest" following a conviction.

F. The term "minor" shall mean an individual who has not attained the age of 18 years.

G. The term "a private area of another person's body" means the naked or undergarment-clad genitals, pubic area, buttocks, or female breast of that person.

H. The term "resides" shall mean, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps. A person may reside at more than one location. A person, including hotel guests, who lives or sleeps on Pueblo of Santa Ana lands for thirty (30) days or more (consecutive or non-consecutive) during a calendar year resides on Pueblo of Santa Ana lands. A person who enters Pueblo of Santa Ana lands with the intent to reside here, or who changes his place of residence within Pueblo of Santa Ana lands, must comply with the registration requirements of this Article within the time periods allowed in Sec. 8-21-11 starting from the date of such entry onto Pueblo of Santa Ana lands or change of residence, i.e., there is no 30-day "waiting period."

I. The term "restricted zone" means a location where children regularly are present, such as a library, a wellness center or gym, or a bus stop.

J. The term "sex offender" shall mean an individual who has been convicted of a sex offense.

K. The term "sex offender registry" shall mean the registry of sex offenders maintained by the Pueblo of Santa Ana and the notification program described in this Article.

L. The term "sex offense" shall have the meaning prescribed in Sec. 8-21-8.

M. The term "sexual act" shall mean:

1. contact between the penis and the vulva or the penis and the anus, and for

- purposes of this definition contact involving the penis occurs upon penetration, however slight;
2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
 4. the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

N. The term "sexual conduct" shall mean a sexual act or sexual contact.

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

P. The term "SORNA" shall mean Title I, Sex Offender Registry and Notification Act, of the Adam Walsh Child Protection and Safety Act, P.L. 109-248.

Q. The term "student" shall mean an individual who is enrolled in or attends a public or private educational institution, including a secondary school, a trade or professional school, and an institution of higher education.

R. The terms "video voyeurism" shall mean capturing the image of a private area of another person's body, in a location where the victim has a reasonable expectation of privacy against such conduct.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-4 Scope.

The provisions of this Article extend to Pueblo of Santa Ana lands, which include:

A. lands held in trust by the federal government for the benefit of the Pueblo of Santa Ana;

B. lands owned by the Pueblo of Santa Ana, subject to restrictions against alienation imposed by operation of federal law; and

C. any other lands that are or may come under the jurisdiction of the Pueblo of Santa Ana.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-5 Severability.

In the event any provision of this Article, or the application of this Article to any person

or circumstance, is held invalid, the remainder of this Article and the application of such provision to other persons or circumstances shall remain unaffected.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-6 Agreements with other Governments.

Nothing in this Article shall be interpreted to foreclose the ability of the Pueblo of Santa Ana to enter into agreements with other governments, including state, federal and other tribal governments, to carry out the duties under this Article and SORNA. Such agreement(s) shall be approved and any necessary amendments to this Article shall be adopted by Tribal Council through resolution prior to execution.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-7 Covered Offenses - General.

A. All of the criminal offenses listed in Sec. 8-21-8 are sex offenses for purposes of this Article.

B. For purposes of this Article, sex offenses also include attempts and conspiracies to commit any criminal offense listed in Sec. 8-21-8.

C. Individuals who reside on Pueblo of Santa Ana lands, are employed on Pueblo of Santa Ana lands, or who attend school on Pueblo of Santa Ana lands, and who have been convicted of any sex offense as defined by this Article, or who have been convicted of an attempt or conspiracy to commit any sex offense as defined by this Article, are subject to the requirements of this Article.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-8 Criminal Offenses that are Sex Offenses.

A. Santa Ana Pueblo Offenses. All sexual offenses under Santa Ana Pueblo law.

B. Federal Offenses. The following offenses under federal law:

1. 18 U.S.C. §1591 (sex trafficking of children);
2. 18 U.S.C. §1801 (video voyeurism of a minor);
3. 18 U.S.C. §2241 (aggravated sexual abuse);
4. 18 U.S.C. §2242 (sexual abuse);
5. 18 U.S.C. §2243 (sexual abuse of a minor or ward);
6. 18 U.S.C. §2244 (abusive sexual contact);
7. 18 U.S.C. §2245 (offenses resulting in death);
8. 18 U.S.C. §2251 (sexual exploitation of children);
9. 18 U.S.C. §2251A (selling or buying of children);
10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor);
11. 18 U.S.C. §2252A (material containing child pornography);
12. 18 U.S.C. §2252B (misleading domain names on the internet);
13. 18 U.S.C. §2252C (misleading words or digital images on the internet);
14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for

- import into the United States);
15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity);
 16. 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity);
 17. 18 U.S.C. §2423 (transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, engaging in illicit sexual conduct in foreign places);
 18. 18 U.S.C. §2424 (failure to file factual statement about an alien individual);
 19. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct);
 20. any other offense hereafter included in the definition of "sex offense" at 42 U.S.C. §1691(5).

C. Military Offenses.

1. Any military offense specified by the Secretary of Defense under §115(a)(8)(C)(i) of Public Law 105-119 as amended by §141(i) of Public Law 109-248 (codified at 10 U. S.C. §951 note); as listed in Enclosure 27 ("Listing of Offenses Requiring Sex Offender Processing") of DoD Instruction 1325.7-P;
2. 10 U.S.C. §920 (rape, sexual assault, and other sexual misconduct).

D. Other Domestic Offenses. Any offense under the laws of a state, another Indian tribe, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, or the United States Virgin Islands that involves any of the following:

1. any type or degree of genital, oral, or anal penetration;
2. any sexual touching of or sexual contact with a person's body, either directly or through the clothing;
3. kidnaping of a minor (unless committed by a parent or guardian of the minor, if the parent or guardian is not a convicted sex offender);
4. false imprisonment of a minor (unless committed by a parent or guardian of the minor, if the parent or guardian is not a convicted sex offender);
5. solicitation of a minor to engage 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, including live performances and the production of pornography;
7. solicitation of a minor to practice prostitution;
8. video voyeurism involving a victim who is a minor;
9. possession, production, or distribution of child pornography;
10. criminal sexual conduct involving a minor, including:
 - (a) rape, sexual assault, sexual abuse, and incest when the victim was a minor at the time of the offense,
 - (b) offenses whose elements involve the use of other persons in prostitution (such as pandering, procuring, or pimping) when the victim was a minor at the time of the offense, and

- (c) the use of the internet to facilitate or attempt such conduct.
- 11. any conduct that by its nature is a sex offense against a minor (i.e, the status of the victim as a minor is an element of the offense); 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); or
 - (g) 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

E. Foreign Offenses. Any offense involving any conduct listed in this Section under the laws of any foreign country.

F. Aggravated Sexual Abuse by a Juvenile. Any sex offense that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241(a) and (b)) and is committed by a minor who is 14 years of age or older at the time of the offense, including engaging in a sexual act with another by force or the threat of serious violence, or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.

G. Exclusion Based on Consensual Conduct. An offense described in subsections 8-21-8(A) through 8-21-8(F) involving consensual sexual conduct is not a sex offense for purposes of this Article if the victim was competent to give consent and did consent to the conduct and:

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

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-9 Tiers of Sex Offenses.

The Pueblo of Santa Ana hereby categorizes sex offenses into the following: Tier 1 sex offense, Tier 2 sex offense, and Tier 3 sex offense.

A. Tier 1 Sex Offense. A sex offense that is not a Tier 2 or Tier 3 sex offense shall be considered a Tier 1 sex offense, including:

1. A sex offense for which the statutory maximum penalty is imprisonment of one year or less, including all sex offenses under Pueblo of Santa Ana law.
2. The following federal offenses for which the statutory maximum penalty is imprisonment of one year or less:
 - (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. §2424 (failure to file factual statement about an alien individual); and
 - (j) 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
3. A sex offense specified by the Secretary of Defense under §115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Sec. 8-21-9(A)(1) and (2) and for which the statutory maximum penalty is imprisonment of one year or less.

B. Tier 2 Sex Offense. Any of the following sex offenses shall be considered a Tier 2 sex offense:

1. A sex offense other than a Tier 3 sex offense for which the statutory maximum penalty is imprisonment for more than one year.
2. A sex offense against a minor 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.
3. The following federal offenses:
 - (a) 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion);
 - (b) 18 U.S.C. §2244 (abusive sexual contact where the victim is 13 years of age or older);
 - (c) 18 U.S.C. §2251 (sexual exploitation of children);
 - (d) 18 U.S.C. §2251A (selling or buying of children);
 - (e) 18 U.S.C. §2252 (material involving the sexual exploitation of a minor);

- (f) 18 U.S.C. §2252A (production or distribution of material containing child pornography);
 - (g) 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States);
 - (h) 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity);
 - (i) 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution);
 - (j) 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).
4. Any military offense specified by the Secretary of Defense under §115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Sec. 8-21-9(B)(1), (2), or (3).
 5. Any sex offense that occurs after the offender became a Tier 1 sex offender, unless Sec. 8-21-9(C)(5) applies.

C. Tier 3 Sex Offenses. Any of the following sex offenses shall be considered a Tier 3 sex offense:

1. A sex offense for which the statutory maximum penalty is imprisonment for more than one year, if the offender has at least one prior conviction for a Tier 2 sex offense.
2. A sex offense that involves:
 - (a) kidnaping of a minor (unless committed by a parent or guardian of the minor, if the parent is not a convicted sex offender);
 - (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 under the age of 13 years, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.
3. The following federal offenses:
 - (a) 18 U.S.C. §2241 (aggravated sexual abuse);
 - (b) 18 U.S.C. §2242 (sexual abuse);
 - (c) 18 U.S.C. §2244 if the victim is 12 years of age or younger (abusive sexual contact); or
 - (d) 18 U.S.C. §2243 (sexual abuse of a minor or ward).
- 4 Any military offense specified by the Secretary of Defense under §115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Sec. 8-21-9(C)(1), (2), or (3).
5. Any sex offense that occurs after the offender became a Tier 2 sex offender.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011; Amended by Ordinance No. 11-O-02, approved September 1, 2011.

Sec. 8-21-10 Registry Requirements for Sex Offenders - General.

- A. The Pueblo of Santa Ana hereby creates a sex offender registry which shall be maintained by a Sex Offender Registrar who shall be appointed by the Governor. If the

Pueblo of Santa Ana enters into an agreement pursuant to Sec. 8-21-6 of this Article to establish and maintain the sex offender registry, the Sex Offender Registrar shall be the person or official identified in such agreement to carry out the duties of the Sex Offender Registrar under this Article.

B. A person who, on the effective date of this Article, is a sex offender and resides, is an employee, or is a student within Pueblo of Santa Ana lands shall register with the Pueblo of Santa Ana no later than thirty (30) calendar days after the effective date of this Article.

C. A person who is convicted of a sex offense by the Pueblo of Santa Ana Tribal Court after the effective date of this Article shall initially register with the Pueblo of Santa Ana as prescribed in Sec. 8-21-11, regardless of whether the sex offender resides, is an employee, or is a student within Pueblo of Santa Ana lands.

D. Every sex offender who resides, is employed, or is a student within Pueblo of Santa Ana lands other than those who come within the scope of Sec. 8-21-10(B) or Sec. 8-21-10(C), shall register with the Pueblo of Santa Ana within 3 business days of establishing a residence, commencing employment, or becoming a student on Pueblo of Santa Ana lands, or within 3 business days of the conviction requiring registration under this Article, whichever date is later.

E. Failure to comply with the registration requirements will subject an individual to the provisions of Sec. 8-21-20 and Sec. 8-21-21.

F. In order to identify and register sex offenders required to register under Sec. 8-21-10(B), the Sex Offender Registrar will endeavor to identify all persons who reside, are employed, or attend school within Pueblo of Santa Ana land on the effective date of this Article and who are on supervision for conviction of any crime. The Sex Offender Registrar shall identify any of such persons who are required to register under this Article, and shall require such registration within the following periods of time after the effective date of this Article:

1. Tier 1 Offenders: one year,
2. Tier 2 Offenders: six months,
3. Tier 3 Offenders: three months.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-10A Requirements for Sex Offenders Who Are Not Required to Register.

A sex offender not required to register under this Article because he or she does not reside, work, or go to school on Santa Ana lands, but who will be on Santa Ana lands for a period of more than twelve hours over two consecutive calendar days shall immediately report to the Santa Ana Police Department upon entering Santa Ana lands at the beginning of the period to advise the Police Department of the reason for and duration of his or her presence on Santa Ana lands and shall allow the Police Department to photograph him or her.

Sec. 8-21-11 Initial Registration for Convictions in Pueblo of Santa Ana Court.

A. The sex offender convicted by the Pueblo of Santa Ana Tribal Court shall initially register:

1. before completing a sentence of imprisonment with respect to the offense giving rise to the registration requirement; or
2. no later than three (3) business days after being sentenced for that offense, if the offender is not sentenced to a term of imprisonment.

B. Failure to comply with the initial registration requirements will subject an individual to the provisions of Sec. 8-21-20 and Sec. 8-21-21.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-12 Keeping the Registration Current.

A. All sex offenders required to register under this Article shall notify the Pueblo of Santa Ana of changes in information in the registry as follows:

1. No later than three (3) business days after each change of name, residence, employment, or school attendance, the sex offender shall appear in person before the Sex Offender Registrar and shall inform the Pueblo of Santa Ana of all such changes.
2. No later than three (3) business days after each change of any other information contained in the registry, the sex offender shall inform the Pueblo of Santa Ana of all such changes, but need not appear in person.

B. Failure to keep a registration current will subject an individual to the provisions of Sec. 8-21-20 and Sec. 8-21-21.

C. The Sex Offender Registrar, no later than three (3) business days after any initial registration or any change in a sex offender's registration information, shall notify:

1. All jurisdictions where the sex offender intends to reside, work, or attend school,
2. Any jurisdiction where the sex offender is either registered or required to register,
3. If the information relates 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, and
4. If the information relates to temporary lodging in another jurisdiction, the jurisdiction where the sex offender intends to be staying temporarily.

D. All sex offenders who are required to register under this Article and who reside on Pueblo of Santa Ana lands are required to inform the Sex Offender Registrar of their intent to commence residence, employment or school attendance outside the United States, and or their intent to travel outside the United States at least twenty-one (21) calendar days in advance of such travel. The Sex Offender Registrar shall provide the

information on international residence, employment, school attendance, and travel to the U.S. Marshals Service, and to the national databases, law enforcement and supervision agencies, and other jurisdictions in which the sex offender is required to register as a resident, employee or student.

E. The Sex Offender Registrar shall, with the approval of the U.S. Department of Justice SMART Office, use the SORNA Exchange Portal or other available technology to share information about sex offenders who relocate between jurisdictions or are required to register in more than one jurisdiction.

F. All sex offenders who reside on Pueblo of Santa Ana lands who are required to register under this Article are required to inform the Sex Offender Registrar of their intent to be away from their residence for seven (7) or more consecutive calendar days at least five (5) business days before commencing the temporary absence. The sex offender shall provide the information described in Sec. 8-21-13(A)(10) of this chapter.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-13 Information Required in Registration.

A. Information Provided by the Sex Offender. The sex offender shall provide the following information to the Sex Offender Registrar for inclusion in the sex offender registry:

1. the full, primary given name of the sex offender;
2. any and all aliases, nicknames, pseudonyms or ethnic names used by the sex offender, regardless of the context in which used, and any names by which the sex offender is commonly known;
3. a valid Social Security Number for the sex offender, and any Social Security Number the sex offender has used in the past, valid or otherwise;
4. the date of birth of the sex offender, including any date(s) of birth used by the sex offender;
5. the address of each residence at which the sex offender resides or will reside, and any location or description that identifies where the sex offender habitually resides (whether a permanent residence or a location otherwise identifiable by a street or address);
6. name and address of employer for any and all places where the sex offender is employed or volunteers, including any transient or day labor employment;
7. the name and address of each school where the sex offender is a student or will be a student;
8. the license plate number, registration number or identifier, a general description (color, make, model, year), and any permanent or frequent location where the vehicle is kept for any and all vehicles owned or operated by the sex offender for work or personal use, including land vehicles, aircraft, and watercraft;
9. a photocopy of all valid driver's licenses and identification cards issued to the sex offender by any jurisdiction, including a photocopy of an identification card issued to the sex offender by the Pueblo of Santa Ana;

Sec. 8-21-14 Duration of Registration Requirement.

A. Full Registration Period. A sex offender shall keep his or her registration under this Article current for the full registration period, excluding any time the sex offender is in custody or civilly committed, unless the sex offender is allowed a reduction under Sections 8-21-14(B) and (C). The full registration period is:

1. fifteen (15) years for Tier 1 sex offenders;
2. twenty-five (25) years for Tier 2 sex offenders;
3. the life of the sex offender for Tier 3 sex offenders.

B. Reduced Period for Clean Record. A sex offender may have this or her period of registration reduced as follows:

1. A Tier 1 sex offender may have his or her period of registration reduced to ten (10) years if he or she has maintained a clean record for 10 consecutive years from the date of initial registration under this Article;
2. A Tier 2 sex offender may have his or her period of registration reduced to 15 years if he or she has maintained a clean record for 15 (fifteen) consecutive years from the date of initial registration under this Article;
3. A Tier 3 sex offender may have his or her period of registration reduced to twenty-five (25) years if he or she has maintained a clean record for twenty-five (25) consecutive years from the date of initial registration under this Article.

C. Clean Record. For purposes of Section 8-21-14(B), a sex offender maintains a clean record by:

1. not being convicted of any offense for which imprisonment for more than one year may be imposed;
2. not being convicted of any sex offense;
3. successfully completing without revocation any periods of supervised release, probation, and parole; and,
4. successfully completing an appropriate sex offender treatment program certified by the Pueblo of Santa Ana, by another jurisdiction, or by the United States Attorney General.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-15 Periodic In-Person Verification.

A. A sex offender shall appear in-person before the Sex Offender Registrar, shall review, update and verify the accuracy of all information in his registration, and shall allow the Sex Offender Registrar to take a current photograph:

1. once a year, if the sex offender is a Tier 1 sex offender;
2. once every six months, if the offender is a Tier 2 sex offender;
3. once every three months, if the offender is a Tier 3 sex offender.

B. If any new information or any change of information is obtained at the in-person verification, the Sex Offender Registrar shall notify all other jurisdictions in which the sex offender is required to register of the new or changed information.

10. if the sex offender will be absent from his residence for 7 or more days, names and addresses of the temporary lodging locations, and the dates the sex offender will be staying at each temporary lodging location;
11. a current photograph, updated every 90 days for Tier 3 sex offenders, every 180 days for Tier 2 sex offenders, and every year for Tier 1 sex offenders;
12. any and all licensing that authorizes the sex offender to engage in an occupation or carry out a trade or business;
13. any internet identifiers, account names, and account identifiers, including but not limited to email addresses, instant message addresses and identifiers, other designations or monikers used for self-identification on internet communications or postings, and any and all designations used by the sex offender for purposes of routing or self-identification in internet communications or postings;
14. a photocopy of all passports issued by any jurisdiction and of any and all immigration documents;
15. telephone numbers of the sex offender and any other designations used by the sex offender for purposes of routing or self-identification in telephonic communications, including any text-based or voice-based communication media using fixed location phones, cellular phones, the internet, or any other communication technology or device;
16. the date of all arrests and convictions;
17. the sex offender's status of parole, probation, or supervised release;
18. the sex offender's registration status;
19. any outstanding arrest warrants;
20. a sample of the sex offender's DNA, unless it is already contained in the Combined DNA Index System (CODIS);
21. finger prints and palm prints in a digitized format;
22. a physical description of the sex offender, including a general description of physical appearance or characteristics, any identifying marks such as scars, moles, birthmarks or tattoos.

B. Information obtained by the Pueblo of Santa Ana. The Sex Offender Registrar shall obtain the following information about the sex offender and shall ensure that the information is included in the registry for that sex offender:

1. all information the sex offender is required to provide under Sec. 8-21-13(A);
2. the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

C. All information required in Sec. 8-21-13(A) and (B) shall be maintained in a digitized format and stored in an electronic database to enable it to be accessed by or transmitted as prescribed in Sec. 8-21-25.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-16 Exclusion Zones and Restricted Zones

A. This section applies to sex offenders whose sex offenses involved minor victims, for the duration of time that such offenders are required to register under this Article.

B. Exclusion Zones: Sex offenders subject to this section are prohibited from being within 100 feet of an exclusion zone located in the Tribal Administration complex, or within 300 feet of an exclusion zone located elsewhere on Santa Ana Pueblo lands

C. Restricted Zones: With regard to restricted zones, sex offenders subject to this section must comply with the following additional conditions:

1. Library: Sex offenders subject to this section are permitted to use the Library between 11:00 a.m. and 2:00 p.m., Monday through Friday, except during school holidays or when children are present.

2. Wellness Center and Gym facilities: Sex offenders subject to this section are permitted to use the Wellness Center and Gym facilities only with the approval of the Registrar, and subject to any conditions imposed by the Registrar on that use.

3. Bus Stops: Sex offenders subject to this section are prohibited from being within 100 feet of a bus stop between 6:00 a.m. and 8:30 a.m., and 2:00 p.m. and 4:30 p.m., and anytime children are present.

4. Buses: Sex offenders subject to this section are prohibited from riding in or driving a bus anytime a child is on board.

5. Department of Education Office:

i. When school is in session, sex offenders are prohibited from being inside or on the sidewalk outside the Department of Education Office between 2:00 p.m. and 6:00 p.m., Monday through Friday, or anytime that children are present.

ii. When school is in not session, sex offenders are prohibited from being inside or on the sidewalk outside the Department of Education Office.

6. Other restricted zones: The Sex Offender Registrar, with the Governor's approval, may establish conditions limiting the presence of sex offenders at restricted zones that are not listed in this section. For any such condition, the Sex Offender Registrar shall provide reasonable notice to registered sex offenders subject to the limiting conditions.

Sec. 8-21-17 Other restrictions. For the duration of their registration periods, all sex offenders are subject to the following conditions:

- A. A sex offender is prohibited from:
 - 1. Being in the presence of a minor without being supervised at all times by an adult who is capable of protecting the welfare and safety of the minor;
 - 2. Working in any position where he or she would have direct contact with minors;
 - 3. Being the watch person at Tamaya;
 - 4. Using alcohol or illegal drugs; or
 - 5. Having any contact with his or her victim, or from going within 100 yards of the victim, or the victim's home, school, or workplace. If at a public place, the sex offender is prohibited from being within 25 yards of the victim.
- B. Sex offenders are subject to curfew and must be in their residences between the hours of 10:00 p.m. and 6:00 a.m., provided that sex offenders who are employed during those hours may travel directly to and from work, and further provided that sex offenders who are Pueblo members may stay in Tamaya during traditional activities.
- C. Sex offenders are subject to random home visits by the Sex Offender Registrar or a Santa Ana Pueblo Police officer, who will be authorized to conduct "plain view" searches of all areas used by the sex offender.
- D. Other conditions set by the Sex Offender Registrar, with the approval of the Governor, that are narrowly tailored to address the particular risks poses by the sex offender.

Sec. 8-21-18 Policies and Procedures Manual.

The Sex Offender Registrar shall develop a policies and procedures manual within a reasonable period of time after this Article is enacted to assist the Pueblo of Santa Ana in the implementation of this Article. Such manual shall not be inconsistent with the provisions of this Article and shall be approved by the Governor before use. Such manual shall include any necessary forms and instructions to assist the Sex Offender Registrar in carrying out his or her duties under this Article.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-19 Absconding Sex Offenders.

- A. If a sex offender fails to perform the duties imposed by this chapter the Sex Offender Registrar shall attempt to determine whether the sex offender has actually absconded. If the sex offender is not located, the Sex Offender Registrar shall report the possible absconding to the appropriate law enforcement agency for investigation.
- B. If the non-complying sex offender is not located, the Sex Offender Registrar shall record in the registry that the sex offender has absconded or is not locatable, shall update the National Crime Information Center and National Sex Offender Registry reflect the sex offender's status as an absconder or unlocatable, and shall refer the violation to the tribal

- for,
4. 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 noncompliance with the requirements of this Article; or
 5. Provides information to law enforcement agency regarding a sex offender which the person knows to be false; or
 6. Uses information contained on the public website to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working or attending school at any reported addresses;

commits a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, and exclusion.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-21 Exclusion; Banishment.

- A. A sex offender who is found to have committed repeated, serious violations of this Article, committed a Tier 3 sex offense during his or her registration period, or committed one or more sex offenses with multiple victims, may be excluded or banished for life from Santa Ana Pueblo lands in accordance with this section. Exclusion proceedings apply to non-members; banishment proceedings apply to members.
- B. An action under this section may be initiated by the Governor upon the recommendation of his staff and/or the War Chief and his staff, or by the Sex Offender Registrar with the approval of the Governor in consultation with his staff and/or the War Chief and his staff, by filing a petition in the appropriate court.
- C. A petition for exclusion shall be filed in the Santa Ana Pueblo Contemporary Court; a petition for banishment shall be filed in the Santa Ana Pueblo Traditional Court. The petition shall state with specificity the grounds for exclusion or banishment and shall be personally served on the sex offender.
- D. The court shall promptly schedule a hearing and provide notice of the hearing and an opportunity to be heard to the sex offender, the Sex Offender Registrar, and other interested parties.
- E. The court shall conduct the hearing in accordance with its rules of civil procedure. At the conclusion of the hearing, the court shall issue a written order. The court shall deliver certified copies of the order to the Sex Offender Registrar and the Santa Ana Police Department. The Sex Offender Registrar shall update the registry to include information on any exclusion or banishment order issued by the court. The Santa Ana Police Department shall enforce any exclusion or banishment order issued by the court.
- F. An order issued under this section may be appealed to the Tribal Council by filing a written notice of appeal with the Governor's Office within five (5) days after the order is

police, tribal prosecutor, and the United States Marshall Service for further investigation and law enforcement proceedings.

C. If the Sex Offender Registrar was notified by another jurisdiction that a sex offender intends to reside, be employed, or attend school within Pueblo of Santa Ana lands and that offender fails to appear for registration as required, the Sex Offender Registrar shall notify the jurisdiction that provided the notification that the sex offender failed to appear for registration with the Pueblo of Santa Ana.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-20 Crimes and Civil Sanctions

A. Violation of this Article. Any Indian sex offender required to register pursuant to this Article who violates any provision of this Article shall be guilty of a crime and, upon conviction thereof, shall be imprisoned for a period of not more than 364 days, fined not more than \$5,000, or both imprisoned and fined.

B. Hindering Sex Offender Registration. Any Indian who:

1. 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 Article; or
2. Knowingly assists a sex offender in violating any provision of this Article; or
3. 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 Article; or
4. Provides information to law enforcement agency regarding a sex offender which the person knows to be false;

is guilty of Hindering Sex Offender Registration, and upon conviction thereof, shall be imprisoned for a period of not more than 364 days, fined not more than \$5,000, or both imprisoned and fined.

C. Unlawful Use of Registry Information. Any Indian who uses information contained on the public website to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working or attending school at any reported addresses is guilty of Unlawful Use of Registry Information, and upon conviction thereof, shall be imprisoned for a period of not more than 180 days, fined not more than \$500, or both imprisoned and fined.

D. Civil Penalties. Any non-Indian who:

1. Is a sex offender required to register pursuant to this Article and who violates any provision of this Article; or
2. 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 Article; or
3. Knowingly assists a sex offender in violating any provision of this Article; or

issued. The notice of appeal shall state the grounds for the appeal. The Tribal Council shall promptly schedule a hearing on the matter and shall provide notice and an opportunity to be heard to the sex offender, the Sex Offender Registrar, and other interested parties. The Tribal Council shall issue a written decision on the appeal and shall deliver certified copies of the decision to the sex offender, the Sex Offender Registrar, and the Santa Ana Police Department. The decision of the Tribal Council shall be final.

Sec. 8-21-22 Creation of Public Sex Offender Registry Website.

A. The Pueblo of Santa Ana shall use and maintain a public sex offender registry website (hereinafter "public website").

B. The public website shall be overseen by the Information Technology Department of the Pueblo of Santa Ana.

C. The Information Technology Department of the Pueblo of Santa Ana shall coordinate with the Sex Offender Registrar to develop, house and maintain any database necessary for the proper administration of the public website.

D. If the Pueblo of Santa Ana enters into an agreement pursuant to Sec. 8-21-6 of this Article that includes the operation and maintenance of the public website, compliance with the provisions in the agreement governing the public website shall constitute compliance with this section.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-23 Required and Prohibited Information.

A. Required Information. The following information shall be made available to the public on the public website:

1. notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded;
2. all sex offenses for which the sex offender has been convicted;
3. the sex offense(s) for which the offender is currently registered;
4. the address of the sex offender's employer(s);
5. the name of the sex offender including all aliases;
6. a current photograph of the sex offender;
7. a physical description of the sex offender;
8. the residential address and, if relevant, a description of a habitual residence of the sex offender;
9. all addresses of schools attended by the sex offender; and
10. the sex offender's vehicle license plate number along with a description of the vehicle.

B. Prohibited Information. The following information shall not be available to the public on the public website:

1. any arrest that did not result in conviction;
2. the sex offender's Social Security Number;
3. any travel and immigration documents;
4. the identity of the victim;
5. Internet identifiers.

C. Witness Protection. For sex offenders who are under a witness protection program, the Governor may honor the request of the United States Marshal Service or other agency responsible for witness protection by not including the original identity of the offender on the public website.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-24 Other Information in the Public Website.

In addition to the required information in Sec. 8-21-23(A), the public website shall contain the following:

A. Links. The public website shall include links to sex offender safety and education resources.

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

C. Warnings. The public website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the public website or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.

D. Search Capabilities. The public website shall have the capability of conducting searches by name, county, city, zip code, and geographic radius.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-25 Notification to Law Enforcement Agencies and the Community.

A. Law Enforcement Community Notification. Whenever a sex offender registers or updates their information with the Pueblo of Santa Ana, the Sex Offender Registrar shall:

1. Within three (3) business days notify the FBI and ensure the information is updated on the National Sex Offender Registry and National Crime Information Center databases.
2. Within three (3) business days notify any agency, department, or program within the Pueblo of Santa Ana that is responsible for criminal investigation, prosecution, or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation;
3. Within three (3) business days notify the Sandoval County Sheriff and any and all other registration jurisdictions due to the sex offender's residency, school attendance, or employment; and
4. Within three (3) business days notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks

under Section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).

- B. Community Notification. The Sex Offender Registrar shall ensure there is an automated community notification process in place that ensures the following:
1. Upon a sex offender's registration or update of information with the Pueblo of Santa Ana, the public website is updated within three (3) business days; and
 2. Email notice is available to the general public to notify them when a sex offender commences residence, employment, or school attendance within Pueblo of Santa Ana lands. This email notice shall include the sex offender's identity.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.

Sec. 8-21-26 Background Checks

A. All businesses operating on Santa Ana lands are required to check all prospective and current employees against the National Sex Offender Registry using the National Sex Offender Public Website as provided herein.

B. Checks involving prospective employees shall be conducted prior to an offer of employment is made. Checks involving current employees shall be done at least annually.

C. Businesses shall document the checks done in accordance with this section in the employee's file and shall produce such documentation to the Sex Offender Registrar upon request.

Sec. 8-21-27 Sovereign Immunity - No Waiver.

A. Nothing in this Article shall be construed as waiving the sovereign immunity of the Pueblo of Santa Ana, its departments, agencies, employees, officials or agents.

Enacted by Ordinance Number 11-O-01, approved April 14, 2011.