



Waganakising Odawak

Little Traverse Bay Bands of Odawa Indians

Office of Tribal Chairman

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SORNS CLASSES OF OFFENDERS REGULATIONS REG-WOS 2012-008 081712-002

I. Introduction. These regulations are promulgated to establish a process for recapturing, registering, and notifying Sex Offenders in accordance with the LTBB Sex Offender Registration and Notification Statute (SORNS). LTBB has additionally determined that a fair judicial appeal process is required for offenders who fall into a Sex Offender Tier and are not in agreement to the tier that has been assigned by the Registering Officer. These regulations address the process of appeal.

II. Definitions:

A. "Felony" means a person has been convicted in a court of competent jurisdiction of one of the following:

1. A crime defined by the Tribe's Criminal Code as a felony or;
2. Rape or;
3. Sexual assault against an individual who has not attained the age of 16 years or;
4. Any other crime that is listed by the Major Crimes Act, Title 18, United States Code, Section 1153 paragraph A. "(a) Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all

other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.”

- B. “Conviction” means being found guilty by either plea of guilty or nolo contendere, or by verdict.
- C. “Registering Officer” means any Law Enforcement Officer or employee assigned the duty of registering sex offenders according to regulations, policies or procedures.

III. Recapture.

- A. According to SORNS a defendant can be recaptured for the following:
 - 1. Sex Offenders that are currently incarcerated or under supervision, either for the predicate sex offense or for some other crime.
 - 2. Sex Offenders that are already registered or subject to a pre-existing sex offender registration requirement under the Tribe’s jurisdiction.
 - 3. Sex Offenders who have reentered the Tribe’s criminal justice system because of a conviction for some other felony crime, (whether or not it is a sex offense).
- B. When a Sex Offender is incarcerated, under Court supervision, or has been convicted of felony crime, the Registering Officer shall obtain a copy of the Offenders criminal history record. Based on the convictions within the criminal history record, the Registering Office shall determine the Tier Classification of the Sex Offender.
- C. Upon making such determination, the Registering Officer shall notify the Sex Offender of his or her Tier Classification and registering requirements.

IV. Tiering Offenders. Pursuant to LTBB SORNS when an offender is convicted in a court of competent jurisdiction the offender will be assigned a tier classification. If at the time of conviction the offender was not assigned a tier or if the offender is relocating from another jurisdiction a tier will be assigned by the Registering Officer to the offender based on the tribal offense that’s elements most closely corresponds to the offense the offender was convicted. The Registering Officer may be consulted by the offender with questions regarding their tier classification or their tiering determination may be appealed to Tribal Court. See Section V of these regulations.

V. Appeals.

- A. If the Sex Offender does not agree with the Registering Officer's determination of the Tier Classification, the Sex Offender will have fifteen (15) days to appeal such determination to the Tribal Court for review.
- B. The Tribal Court may review the Registering Officer's determination of the Tier Classification by using the review standard of arbitrary and capricious wherein the determination will only be invalid because it was made on unreasonable grounds or without any proper consideration of circumstances.
- C. The Tribal Court will notify the Registering Officer and the Sex Offender of its determination.
- D. The Registering Officer shall register the Sex Offender based on the Tribal Court ruling.

CERTIFICATION

As Chairperson, I approve this Retroactive Classes of Offenders Regulations.

Date: 8-30-12

Dexter McNamara
Dexter McNamara, Tribal Chairperson

Received by the Tribal Council Office on: 08/31/12 by: Michael Smith

As the Legislative Leader and Tribal Council Secretary, we certify that these SORNS Classes of Offenders Regulations were approved by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on SEPTEMBER 09 2012 at which a quorum was present, by a vote of 9 in favor, 0 opposed, 0 abstentions, and 0 absent.

Date: 9/9/12

Melvin L. Kiogima
Melvin L. Kiogima, Legislative Leader

Date: 9-9-12

Regina Gasco Bentley
Regina Gasco Bentley, Secretary

