

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

ORDINANCE #06/05

REGISTRATION & THIRD PARTY NOTIFICATION
OF PREDATORY OFFENDERS

Adopted by Resolution #1260/05 of the Fond du Lac Reservation
Business Committee on October 13, 2005.

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CHAPTER 1

AUTHORITY, PURPOSE AND SCOPE

Section 101 **Authority**

This Ordinance is enacted by the Fond du Lac Reservation Business Committee pursuant to the inherent sovereign authority of the Fond du Lac Fond du Lac Band of Lake Superior Chippewa, as recognized under the Treaty of LaPointe, 10 Stat. 1109; Section 16 of the Indian Reorganization Act, 25 U.S.C. § 476; Article VI of the Revised Constitution of the Minnesota Chippewa Tribe; and under the common law of the United States.

Section 102 **Findings and Purposes**

The Fond du Lac Reservation Business Committee recognizes the importance of protecting the residents of the Fond du Lac Reservation from persons who habitually commit sexual and violent crimes through identification, tracking, and public notification commensurate to the risk of reoffense presented by each individual offender.

Section 103 **Scope and Applicability**

The registration provisions of this Ordinance shall apply to any member of the Minnesota Chippewa Tribe who resides within the boundaries of the Fond du Lac Reservation. The third party notification provision of this Ordinance applies to any predatory offender residing on the Fond du Lac Reservation.

Section 104 **Reservation of Rights**

The Reservation Business Committee reserves the right to amend or repeal all or any part of this Ordinance at any time. There shall be no vested private right of any kind created by this Ordinance. All the rights, privileges, or immunities conferred by this Ordinance or by acts done pursuant thereto shall exist subject to the powers of the Fond du Lac Band. Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Fond du Lac Band or a consent to jurisdiction by any

government or forum not expressly authorized to exercise jurisdiction under this Ordinance.

CHAPTER 2

DEFINITIONS AND INTERPRETATION

Section 201 Definitions

For the purposes of this Ordinance,

- (a) **"Band"** means the Fond du Lac Band of Lake Superior Chippewa.
- (b) **"Level I offender"** means any person who has been convicted of a predatory offense and has been adjudicated under applicable law as presenting a low risk of recommitting a predatory offense.
- (c) **"Level II offender"** means any person who has been convicted of a predatory offense and has been adjudicated under applicable law as presenting a moderate risk of recommitting a predatory offense.
- (d) **"Level III offender"** means any person who has been convicted of a predatory offense and has been adjudicated under applicable law as presenting a high risk of recommitting a predatory offense.
- (e) **"Motor vehicle"** means any vehicle which is required to be registered under the Fond du Lac Motor Vehicle Registration Ordinance;
- (f) **"Non-resident"** means any person who does not have a permanent place of abode on the Reservation, except as hereafter provided. Non-resident does not mean any temporary or seasonal resident (see "Resident").
- (g) **"Predatory offense"** means any of the following offenses or another offense arising out of the same set of circumstances:
 - (1) Murder;
 - (2) Kidnapping;
 - (3) Criminal sexual conduct which is defined as a felony under applicable law;
 - (4) Indecent exposure which is defined as a felony under applicable law;
 - (5) False imprisonment of a minor which is defined as a felony under applicable law;

- (6) Solicitation of a minor to engage in prostitution, sexual conduct or sexual performance; or
- (7) Possession of pornographic work involving a minor.

- (h) **"Primary residence"** means any place where the person resides longer than 14 days.

- (i) **"Resident"** means any person who has a permanent place of abode on the Reservation.

- (j) **"Reservation"** means the Fond du Lac Reservation.

- (k) **"Reservation Business Committee or "RBC"** means the governing body of the Fond du Lac Band of Lake Superior Chippewa.

- (l) **"Secondary residence"** means any place where the person regularly stays overnight when not staying at the person's primary residence, and includes, but is not limited to:
 - (1) The person's parent's home if the person is a student and stays at the home at times when the person is not staying at school, including during the summer; or
 - (2) The home of someone with whom the person has a minor child in common where the child's custody is shared.

CHAPTER 3

GENERAL PROVISIONS

Section 301 Registration required

- (a) A person shall be required to register under this Ordinance if the person is a member of the Minnesota Chippewa Tribe residing within the boundaries of the Fond du Lac Reservation and the person was convicted of or adjudicated delinquent for a predatory offense, as defined under Section 201(g) of this Ordinance, by a court of competent jurisdiction.

- (b) The registration requirement set forth in subsection (a) shall apply for a ten (10) year period following the person's release from confinement for the offense listed above or, if the person was not confined, for a ten (10) year period following the person's conviction for or adjudicated delinquency for the offense that triggers registration, unless the person is subject to lifetime registration in accordance with Section 305 of this Ordinance, in which case the person must register for life regardless of when the person was

released from confinement, convicted, or adjudicated delinquent.

- (c) A person shall also be required to register under this Ordinance if the person was committed pursuant to a valid court commitment order as a sexually psychopathic personality or a sexually dangerous person.

Section 302 Notice; registration procedure

- (a) Upon receiving notice that a person is required to register under Section 301, the Chief Law Enforcement Officer of the Fond du Lac Band shall notify the person, in writing, of the registration requirements set forth under Section 301, and shall provide the person with a predatory offender registration form.
- (b) A person required to register under this Ordinance shall register with the Fond du Lac Police Department within ten (10) days of receiving notice of his or her registration responsibility as provided under subsection (a). Failure to shall subject the person to the enforcement provisions of this Ordinance.
- (c) At least five days before the person starts living at a new primary address within the Fond du Lac Reservation, the person shall give written notice of the new primary living address to the Chief Law Enforcement Officer of the Fond du Lac Band. The Chief Law Enforcement Officer shall, within two business days after receipt of this information, forward it to the Minnesota Bureau of Criminal Apprehension.
- (d) In addition to other information required by this Ordinance, the person shall provide the address of the school or of the location where the person is employed. A person must comply with this paragraph within five days of beginning employment or attendance at a school. A person's obligation to register under this paragraph terminates when the person's primary living address is no longer within the Fond du Lac Reservation.

Section 303 Contents of registration

- (a) The registration provided to the Chief Law Enforcement Officer of the Fond du Lac Band must consist of a statement in writing signed by the person, a fingerprint card, and photograph of the person taken at the time of the person's release from incarceration or, if the person was not incarcerated, at the time the person initially registered under this Ordinance. The registration information also must include a written consent form signed by the person allowing a treatment facility to release information to a law enforcement officer about the person's admission to, or residence in, a treatment facility. Registration information on adults and juveniles may be

maintained together notwithstanding any other provision of law.

- (b) For persons required to register under Section 301(c) of this Ordinance, following commitment committed pursuant to a valid court commitment order as a sexually psychopathic personality or a sexually dangerous person, the registration provided to the Chief Law Enforcement Officer must include the person's offense history and documentation of treatment received during the person's commitment. This documentation shall be limited to a statement of how far the person progressed in treatment during commitment. Within three days of receipt, the Chief Law Enforcement Officer shall forward the registration information to the Minnesota Bureau of Criminal Apprehension.
- (c) For the purposes of completing registration under this section, the Chief Law Enforcement Officer may require that a person required to register under this section appear at the Fond du Lac Police Department to be photographed or fingerprinted. The Chief Law Enforcement Officer shall forward the photograph and fingerprints to the Minnesota Bureau of Criminal Apprehension.
- (d) During the period a person is required to register under this Ordinance, the following shall apply:
 - (1) The Chief Law Enforcement Officer shall mail a verification form to the last reported address of the person's residence on the Fond du Lac Reservation. This verification form shall provide notice to the offender that, if the offender does not return the verification form as required, information about the offender may be made available to the public through electronic, computerized, or other accessible means.
 - (2) The person shall mail the signed verification form back to the Chief Law Enforcement Officer within ten days after receipt of the form, stating on the form the current and last address of the person's residence and the other information required under Section 305.
 - (3) If the person fails to mail the completed and signed verification form to the Chief Law Enforcement Officer within ten days after receipt of the form, the person shall be in violation of this Ordinance. For persons required to register under Section 301(c) following commitment following commitment as a sexually psychopathic personality or a sexually dangerous person, the following commitment committed pursuant to a valid court commitment order as a sexually psychopathic personality or a sexually dangerous person, the Chief Law Enforcement Officer shall comply with clause (1) at least four times each year. For all other persons required to register under this section, the Chief Law Enforcement

Officer shall comply with clause (1) each year within 30 days of the anniversary date of the person's initial registration.

- (e) When sending out a verification form, the Chief Law Enforcement Officer must determine whether the person to whom the verification form is being sent has signed a written consent form as provided for in paragraph (a). If the person has not signed such a consent form, the Chief Law Enforcement Officer must send a written consent form to the person along with the verification form. A person who receives this written consent form must sign and return it to the Chief Law Enforcement Officer at the same time as the verification form.
- (f) For the purposes of this subdivision, "treatment facility" means a residential facility whose staff are trained in the supervision of sex offenders in accordance with applicable law.

Section 304 Information required to be provided

- (a) A person required to register under this Ordinance shall provide to the Chief Law Enforcement Officer the following information:
 - (1) The address of the person's primary residence on the Fond du Lac Reservation;
 - (2) The addresses of all the person's secondary residences on the Fond du Lac Reservation, including all addresses used for residential or recreational purposes;
 - (3) The addresses of all property owned, leased, or rented by the person on the Fond du Lac Reservation;
 - (a) The addresses of all locations on the Fond du Lac Reservation where the person is employed; and
 - (b) The year, model, make, license plate number, and color of all motor vehicles owned or regularly driven by the person.
- (b) The person shall report to the agent or authority the information required to be provided under paragraph (a), clauses (2) to (5), within five days of the date the clause becomes applicable. If because of a change in circumstances any information reported under paragraph (a), clauses (1) to (5), no longer applies, the person shall immediately inform the agent or authority that the information is no longer valid.

Section 305 Registration period

- (a) Except as provided in paragraphs (b), (c), and (d), the requirement to register under this Ordinance shall continue to until ten years have elapsed since the person initially registered in connection with the offense, or until the probation, supervised release, or conditional release period

expires, whichever occurs later. For a person required to register under this section who is committed under Section 301(c), the ten-year registration period does not include the period of commitment.

- (b) If a person required to register under this section fails to register following a change in residence, the person shall be required to continue to register for an additional period of five years, which shall be added to the end of the offender's registration period under subsection (a).
- (c) If a person required to register under this Ordinance is subsequently incarcerated following a revocation of probation, supervised release, or conditional release for that offense, or a conviction for any new offense listed under Section 301(a), the person shall continue to register until ten years have elapsed since the person was last released from incarceration or until the person's probation, supervised release, or conditional release period expires, whichever occurs later.
- (d) A person shall continue to comply with this Ordinance for the life of that person:
 - (1) If the person is convicted of or adjudicated delinquent for any offense for which registration is required under Section 301(a), and the person has a prior conviction or adjudication for an offense for which registration was or would have been required under Section 301(a); or
 - (2) If the person is convicted of or adjudicated delinquent for any offense for which registration is required under Section 301(a) and the person has been committed pursuant to a valid court commitment order as a sexually psychopathic personality or a sexually dangerous person under Section 301(c).

Section 306 Use of information

Except as provided under Section 308, pertaining to community notification, the information collected under this Ordinance may be used only for law enforcement purposes.

Section 307 Third party and public notification of information pertaining to predatory offenders

- a. Class I offenders. Within 5 days of receiving information related to a Class I predatory offender residing on the Reservation, the Chief Law Enforcement Officer shall notify the victim of the offense, if known, any witnesses to the offense, if known, and to any adult member of the offenders immediate household.

- b. Class II offenders. Within 5 days of receiving information related to a Class II predatory offender residing on the Reservation, the Chief Law Enforcement Officer shall notify the victim of the offense, if known, any witnesses to the offense, if known, any adult member of the offenders immediate household, and any agencies or groups which are likely to be victimized by the offender, including educational institutions, day care facilities, and any other establishment which primarily serves individuals who are likely to be victimized by the offender.
- c. Class III offenders. Within 5 days of receiving information related to a Class III predatory offender residing on the Reservation, the Chief Law Enforcement Officer shall notify all individuals and entities identified in subsections (a) and (b), and shall publicly post the following information pertaining to the offender:
1. Full name;
 2. Photograph; and
 3. District of residence.

In determining whether individual data shall be posted under this section, the Chief Law Enforcement Officer may rely upon written information provided by any federal or state law enforcement agency.

- d. Class I and Class II offenders who fail to comply with registration requirements. If a Class I or Class II predatory offender is (1) 16 years of age or older and (2) out of compliance with the registration requirements of this Chapter for a period of 30 days or longer, information regarding that individual shall be publicly posted under subsection (c).

CHAPTER 4

ADMINISTRATION AND ENFORCEMENT

Section 401 Administration of Ordinance

The Chief Law Enforcement Officer of the Fond du Lac Band shall be responsible for the administration of this Ordinance. The Chief Law Enforcement Officer shall investigate any allegation that a member of the Minnesota Chippewa Tribe residing on the Fond du Lac Reservation has a prohibited conviction under Section 301 and, if such allegation is accurate, shall process the matter in accordance with the provisions of this Ordinance.

Section 402 Enforcement procedures

- (a) A person required to register under this section who knowingly violates any of its provisions or intentionally provides false information to the Chief Law Enforcement Officer shall be guilty of a misdemeanor and shall be subject to (1) exclusion from Band lands under Section 302(a) of the Fond du Lac Removal and Exclusion Ordinance, FDL Ord. #04/99; and (2) forfeiture of privileges and benefits derived from the Fond du Lac Band as deemed to be appropriate by the Reservation Business Committee.

- (b) Upon the exclusion of an offender under subsection (a), the Chief Law Enforcement Officer shall contact the Minnesota Bureau of Criminal Apprehension and local law enforcement authority and shall provide all information relating to the offender's possible location. For purposes of this section, local law enforcement agency means the chiefs of police of each city within a 50 mile radius of the Fond du Lac Reservation and the sheriffs of Carlton and St. Louis counties.

Section 403 Availability of information on offenders who are out of compliance with registration law

- (a) The Chief Law Enforcement Officer may make information available to the public about offenders who are 16 years of age or older and who are out of compliance with this Ordinance for 30 days or longer for failure to provide the address of the offenders' primary or secondary residences. This information may be made available to the public through physical publication, electronic, computerized, or other accessible means. The amount and type of information made available shall be limited to the information necessary for the public to assist law enforcement in locating the offender.

- (b) An offender who comes into compliance with this section after the Chief Law Enforcement Officer discloses information about the offender to the public under this section may send a written request to the Chief Law Enforcement Officer requesting that information about the offender be again regarded as private data, consistent with subsection (a) of this section. The Chief Law Enforcement Officer shall review the request and promptly take reasonable action to treat the data as private, if the offender has complied with the requirement that the offender provide the addresses of the offender's primary and secondary residences, or promptly notify the offender that the information will continue to be treated as public information and the reasons for the decision.

- (c) If an offender believes the information made public about the offender is inaccurate or incomplete, the offender may

challenge the data in writing to the Chief Law Enforcement Officer. Within ten (10) days of the receipt of such challenge, the Chief Law Enforcement Officer shall give due consideration to the challenge in accordance with the provisions of this Ordinance, and respond to the offender in writing, citing the decision and the specific basis under this Ordinance for the decision.

CHAPTER 5
AMENDMENTS; SEVERABILITY

Section 501 Additional provisions and requirements

The Reservation Business Committee may amend this Ordinance as it deems necessary to protect the public health, safety and welfare of the Fond du Lac Reservation.

Section 502 Severability


If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #06/05 was duly presented and adopted by Resolution #1260/05 by a vote of 3 for, 0 against, 0 silent, with a quorum of 4 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on October 13, 2005 on the Fond du Lac Reservation.



Peter J. Defoe, Chairman



Kevin R. Dupuis, Sr. Sec./Treas.

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