

Title 4 – Criminal Code
Chapter 14 - Registration of Sex Offenders, Procedures,
Sex Offense Defined, Penalties

Sec.

4-14.010	Definitions
4-14.020	Registration Requirements
4-14.030	Registration of Sex Offenders – Termination of Duty to Register
4-14.040	Publication – Notice to Community Members about Sexual Offenders
4-14.050	Effective Date

Legislative History

Enacted:

Criminal Code, Ord. 224 (11/3/04), BIA (11/17/04).

4-14.010 Definitions.

- (A) **"Conviction,"** for purposes of this Chapter, means adult convictions and juvenile offender, delinquency and criminal adjudications for sex offenses.
- (B) **"Indian country,"** consistent with the meaning given in 18 U.S.C. § 1151 means:
 - (1) All land within the limits of the Swinomish Indian Reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights of way running through the Reservation; and
 - (2) All Indian allotments or other lands held in trust for a Swinomish tribal member or the Tribe, or otherwise subject to a restriction against alienation imposed by the United States, the Indian titles to which have not been extinguished, including rights of way running through the same.
- (C) **"Reservation"** shall refer to the Swinomish Indian Reservation and all Indian Country under the jurisdiction of the Swinomish Indian Tribal Community.
- (D) **"Sex offense,"** for the purpose of this Chapter, means any offense which would fall under the Chapter entitled "Sexual Offenses," STC 4-03, and/or is defined as a sex offense by the laws of the jurisdiction wherein the person was convicted or received a deferred prosecution or suspended sentence.
- (E) **"Tribe"** means the Swinomish Indian Tribal Community.

[History] Ord. 224 (11/3/04).

4-14.020 Registration Requirements.

- (A) Any adult or juvenile residing or employed within the Indian Country under the jurisdiction of the Tribe who has been found to have committed or has been convicted of any sex offense shall register with the Skagit County Sheriff's Office and provide all relevant information requested by the Skagit County Sheriff's Office.
- (B) All Sex offenders that are required to register under Subsection (A) shall register pursuant to the following deadlines:
- (1) **Sex Offenders in Custody.** Sex offenders who committed a sex offense on, before, or after January 1, 2005 and who, on or after December 15, 2004, are in custody of the state department of corrections as a result of that offense, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register within twenty-four (24) hours from the time of release with the Skagit County Sheriff's Office. The agency that has jurisdiction over the offender shall provide notice to the sex offender of the duty to register. Failure to register within four (4) days of release constitutes a violation of this Section and is punishable as provided in Subsection (F) of this Section.
 - (2) **Sex Offenders Not In Custody But Under Tribal, Federal, State, or Local Jurisdiction.** Sex offenders, who, on January 1, 2005, are not in custody but are under the jurisdiction of the Swinomish Indian Tribal Community, the indeterminate sentence review board or under the active supervision of the state department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after January 1, 2005, must register within four (4) days of January 1, 2005.
 - (3) **Sex Offenders Who Are Convicted But Not Confined.** Sex offenders who are convicted of a sex offense on or after January 1, 2005, for a sex offense that was committed on or after January 1, 2005, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the Skagit County Sheriff's Office to register within four (4) days of completion of being sentenced.
 - (4) **Sex Offenders Who Are New Residents Or Returning Swinomish Residents.** Sex-offenders who move to the Swinomish Reservation from another jurisdiction that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to the Swinomish Reservation, must register within four (4) days of establishing residence or re-establishing residence on the Reservation. The duty to register under this Subsection applies to all sex offenders ever convicted under the laws of the federal government, any state, or other jurisdiction. Sex offenders

from Washington or other states who, when they move to the Swinomish Reservation, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must report change of residence within four (4) days of moving onto the Swinomish Reservation. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to the Swinomish Reservation, which for all purposes of this Chapter shall be construed in its broadest sense.

- (C) Failure to register within the time required under this Section constitutes a *per se* violation of this Section and is punishable as provided in Subsection (F) of this Section.
- (D) An arrest on charges of failure to register, service of information, or a complaint for a violation of this Section, or arraignment on charges for a violation of this Section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this Section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this Subsection, constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from civil or criminal liability for failure to register prior to the filing of the original charge.
- (E) If any person required to register pursuant to this Section changes his or her residence address within the Reservation, the person must send written notice of the change of address to the Skagit County Sheriff's Office within twenty-four (24) hours of establishing the new residence. If any person that is required to register pursuant to this Section moves outside the Swinomish Reservation, the person must register with the state of Washington in the new county within ten (10) days of establishing the new residence. The person must also send written notice within twenty-four (24) hours of the change of address in the new county to the Skagit County Sheriff's Office.
- (F) A person who fails to register as required by this Section is guilty of a **Class A offense** if the crime for which the individual was convicted was a Class A or Class B offense or a federal, state, or other conviction for an offense that, under the laws of this sovereign, would be a Class A offense. If the crime was other than a Class A offense, Class B offense, or a federal, state, or other conviction for an offense that, under the laws of this sovereign, would be a Class A offense, violation of this Section is a **Class B offense**.

[History] Ord. 224 (11/3/04).

4-14.030 Registration of Sex Offenders - Termination of Duty to Register.

- (A) The duty to register under Section 4-14.020 shall end:
- (1) For a person convicted of a Class A or Class B offense or a convicted within a federal, state, or other court for an offense that, under the laws of this sovereign, would be a Class A or Class B offense, fifteen (15) years after the last date of release from confinement, if any, which includes full-time residential treatment, pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen (15) consecutive years in the community without being convicted of any new criminal offenses.
 - (2) For a person convicted of a Class C offense or a convicted within a federal, state, or other court for an offense that, under the laws of this sovereign, would be a Class C offense, ten (10) years after the last date of release from confinement, if any, which includes full-time residential treatment, pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten (10) consecutive years in the community without being convicted of any new criminal offenses.
- (B) Upon receipt of a motion, the Court may relieve an individual of the duty to register for a sex offense that was committed while the sex offender was under the age of fifteen (15) if the individual:
- (1) has not been adjudicated of any additional sex offenses during the forty-eight (48) months following the adjudication for the sex offense giving rise to the duty to register, and
 - (2) the sex offender proves by a preponderance of the evidence that future registration of the petitioner will not serve the purposes of protecting members of the Swinomish community because rehabilitation and or other protective measures have been implemented and are certain to ensure the safety of the community.
- (C) Unless relieved of the duty to register pursuant to this Section, a violation of Section 4-14.020 is an ongoing offense for purposes of the statute of limitations under Section 3-03.080.
- (D) Nothing in the totality of Title 4 of the Swinomish Tribal Code relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to Section 4-14.020.

[History] Ord. 224 (11/3/04).

4-14.040 Publication - Notice to Community Members about Sexual Offenders.

The degree of publication to the Swinomish community concerning sexual offenders who visit, work and or reside on the Reservation shall be in proportion to the potential level of harm and/or the degree of risk of re-offending that person represents to children or others in the Swinomish Community.

[History] Ord. 224 (11/3/04).

4-14.050 Effective Date.

This Chapter shall become effective on January 1, 2005.

[History] Ord. 224 (11/3/04).