



# Bois Forte

TRIBAL GOVERNMENT

## RESOLUTION NO. 100-2020

**WHEREAS,** the Bois Forte Band of the Minnesota Chippewa Tribe (“Band”) is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934 and operating under the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe; and

**WHEREAS,** the lawful governing body of the Band is the Bois Forte Reservation Tribal Council (“RTC”) and it is authorized to enact ordinances, policies, and regulations for the health, safety, and general welfare of the Band and its members; and

**WHEREAS,** the RTC has civil and criminal jurisdiction over the conduct of Band members that threatens the health, welfare, and safety of the Band, *see, e.g., Worcester v. Georgia*, 31 U.S. 515, 555 (1832); *Ex parte Crow Dog*, 109 U.S. 556 (1883); *Williams v. Lee*, 358 U.S. 217, 271 (1959), which necessarily includes the authority to issue public health quarantine orders against an Indian who may be infected with a contagious disease that threatens the health and welfare of the Reservation community, *see Centers for Disease Control and Prevention, Quarantine and Isolation, Legal Authorities for Public Health Orders, available at <https://www.cdc.gov/quarantine/aboutlawsregulationsquarantineisolation.html>*;

**WHEREAS,** due to the Band’s inherent authority to exclude any person from the Bois Forte Reservation, the RTC possesses the civil jurisdiction to exclude nonmembers from its territory and regulate nonmembers’ conduct by setting conditions on their entry or continued presence on tribal lands, or on their conduct, *see, e.g., New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 333 (1983); *Water Wheel Camp Recreational Area, Inc. v. LaRance*, 642 F.3d 802, 811 (9th Cir. 2011) (citing *Merrion v. Harjo Apache Tribe*, 455 U.S. 130, 144 (1982)); *South Dakota v. Bourland*, 508 U.S. 679, 691 n.11 (1993); *Montana v. United States*, 450 U.S. 544, 557 (1981), which necessarily includes the authority to issue public health quarantine orders against a nonmember who may be infected with a contagious disease that threatens the health and welfare of the Reservation community;

**WHEREAS,** the RTC also has civil jurisdiction over a nonmember who has engaged in conduct that threatens or has some direct effect on the political integrity, economic security, or the health or welfare of the tribe, *Montana*, 450 U.S. at 565-66, which necessarily includes the authority to issue public health quarantine orders against a nonmember who may be infected with a contagious disease that threatens the health and welfare of the Reservation community;

**WHEREAS,** COVID-19, a serious respiratory illness that spreads from person-to-person, has been declared a pandemic by the World Health Organization, and there are thousands of active cases of the virus in the State of Minnesota;

**WHEREAS,** the RTC finds that in order to prevent the spread of COVID-19, it is in the best interests of the Reservation community and public at large to exercise its inherent authorities described herein and issue this Public Health Quarantine Policy, subject to the conditions and protections provided herein.

**NOW THEREFORE BE IT RESOLVED** that the Bois Forte Reservation Tribal Council finds that it is in the best interests of the Band and the Reservation community to adopt the following measures, effective immediately:

**Section A. Recommendation for Quarantine.** Bois Forte Health and Human Services shall seek to obtain voluntary compliance with recommendations for quarantine or other measures with those located within the Band's territory who have tested positive for COVID, who are exhibiting symptoms of COVID-19, or who have come into close contact with another person who is confirmed or suspected of carrying COVID-19. Additionally, the Director of Bois Forte Health and Human Services may submit a request to the RTC, supported by written findings and recommendations, for the issuance of a Quarantine Order.

**Section B. Quarantine Order.**

**1. Issuance of Quarantine Order.** Upon due consideration of the findings and recommendations of the Director of Bois Forte Health and Human Services or on its own accord, the Bois Forte Reservation Tribal Council may issue a Quarantine Order if it finds, based on clear and convincing evidence, that a person residing on Reservation:

- a. tested positive for COVID, is exhibiting symptoms of COVID-19, or has come into close contact with another person who is confirmed or suspected of carrying COVID-19; and

- b. **issuance of the Quarantine Order is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.**
2. **Quarantine Period.** Unless provided otherwise, a Quarantine Order will take effect immediately upon issuance and will end on the earlier of the following events: (a) the RTC or its designee, based on the opinion of a medical health professional at the Bois Forte Medical Clinic, determines that the subject person no longer poses a risk of becoming ill or spreading the disease to others; or (b) 14 days from the date of issuance of the Quarantine Order ("Quarantine Period").
3. **Place of Quarantine.** Unless provided otherwise, the place of quarantine shall be the subject person's residence and his/her adjoining property ("Place of Quarantine"). The subjected person must remain within the Place of Quarantine for the duration of the Quarantine Period.
4. **Conditions of Quarantine.** The RTC, in coordination with officials from other Tribal departments, including the Bois Forte Medical Clinic and/or Bois Forte Health and Human Services, shall do everything reasonable under the circumstances to ensure that adequate food, water, medications, and other essential items and services are available at the Place of Quarantine.
5. **Quarantine Restrictions.** Unless otherwise specified in the Quarantine Order, the following restrictions shall be placed on quarantined persons:
  - a. Throughout the Quarantine Period, the person subject to the Order shall not leave the Place of Quarantine, nor shall the person allow any minor under his or her care to leave the Place of Quarantine. The subject person and any minor under his or her care shall not go to work, school, or any daycare facility;
  - b. Throughout the Quarantine Period, the subject person and any minor under his or her care shall not allow visitors or guests to enter the Place of Quarantine; and
  - c. Throughout the Quarantine Period, the subject person may only leave the Place of Quarantine after receiving express written authorization by a medical professional who works at the Bois Forte Medical Clinic or another official designated by the RTC and, even then, the subject person shall only leave the Place of Quarantine for the purposes and duration authorized by that official.

**Section C. Penalties.**

1. Violation of a Quarantine Order may result in the issuance of civil penalties imposed by the RTC and/or criminal penalties imposed by the Bois Forte Tribal Court.
2. **First Violation.** Whoever subject to a Quarantine Order intentionally violates any terms or conditions of the Order may be subject to the following civil penalties:
  - a. Up to a 2-year suspension and/or revocation of rights, privileges, and/or benefits available to Band members, including, but not limited to:
    - i. Hunting, fishing, and gathering permits;
    - ii. Distribution of per capita payments; and
    - iii. Eligibility for housing services.
  - b. A civil fine not to exceed \$1,000.
3. **Second or Subsequent Violation(s).** Whoever subject to a Quarantine Order and who has been found by the RTC to have previously violated a Quarantine Order, intentionally violates any terms or conditions of the Order for a second or subsequent time may be subject to the following civil penalties:
  - a. Enhancement of the penalties issued for the first-time violation, subject to the following limitations:
    - i. The suspension and/or revocation of rights, privileges, and/or benefits available to Band members may not exceed a period of five (5) years;
    - ii. The civil fine may not exceed \$2,000.
  - b. Temporary or permanent banishment from the Reservation.
4. **Criminal Sanction.** Notwithstanding the above penalties, violation of a Quarantine Order shall constitute a Violation of an Approved Tribal Ordinance, pursuant to Section 617.01 of the Bois Forte Criminal Code, and may subject the violator to applicable criminal sanctions and processes.

**Section D. Enforcement.**

1. Any law enforcement or peace officer shall have the authority to enforce the provisions of a Quarantine Order and cite any person found to be in violation of a Quarantine Order.
2. The law enforcement or peace officer shall forward all civil citations and accompanying documentation to the RTC or its designee for review and disposition. In the event that a criminal citation is issued by law enforcement, the criminal citation shall be processed in accordance with the Bois Forte Tribal Code.

**Section E. Appeal.**

1. A person determined by the RTC to be in violation of a Quarantine Order shall have the right to appeal any civil penalty imposed by the RTC. A written notice of appeal must be submitted to the RTC or its designee within 10 days of the imposition of a civil penalty. Failure to timely submit a written notice of appeal will result in the waiver of the right appeal.
2. Upon the timely receipt of a written notice of appeal, the RTC shall hold a hearing within 30 days to hear argument and take evidence from the person contesting the imposition of civil penalties.
3. In the interest of public health and safety, the RTC may, in its sole discretion, hold the hearing in person, telephonically, or by other electronic means.
4. Failure to appear at the hearing may result in immediate dismissal of the appeal.
5. The RTC shall issue a decision that disposes of the appeal submitted.
6. The RTC's disposition on an appeal submitted shall be final and not subject to review by any forum, including the Bois Forte Tribal Court.

### Certification

We do hereby certify that the foregoing resolution was duly presented and enacted upon by a vote of 4 for, 0 against, 0 abstaining, at a meeting of the Bois Forte Reservation Tribal Council, a quorum being present, held on June 19, 2020 at Nett Lake, Minnesota.

DocuSigned by:

*Cathy Chavers*

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Cathy Chavers  
Chairwoman

DocuSigned by:

*David Morrison Sr*

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David C. Morrison, Sr.  
Secretary-Treasurer