

Rural Municipality of Riding Mountain West

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Policy No. PER 08	Reference: Human Resources
Policy Title: Whistleblower Policy	Pages: 5
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**PRINCIPLES:**

All wrongdoing should be reported and addressed. This Policy is designed to assist in the uncovering and elimination of wrongdoing which, if unchecked, presents the following risks:

- harm to the health and safety of fellow employees or the public;
- gross financial loss to the Municipality or gross mismanagement of corporate resources;
- legal jeopardy; including possible prosecutions, fines, civil suits or other legal costs;
- the ability of the Municipality to carry on business;
- employee morale and undue employee turnover; and,
- possible breaches of the Codes of Conduct.

This Policy is not intended to replace or in any way diminish the responsibility of those in positions of authority, whether in-scope or out-of-scope, to promote and enforce the Municipality's various policies, operating procedures and other workplace rules. Neither is this Policy intended to replace or derogate from existing grievance or other internal investigative processes available to employees. Council retains the prerogative to determine if any particular situation warrants an alternative investigative process.

**DEFINITIONS:**

**Whistleblowing** is the act by an employee of disclosing wrongdoing, which is under the control of the Council in accordance with the procedures herein.

**Wrongdoing** includes any serious act or omission, intentional or not, which is illegal, contrary to the public interest (whether unethical, immoral, illegitimate or inappropriate) or contrary to Council's policies or operating procedures, as well as requesting another person to commit, or the concealment of, any such wrongdoing.

**Whistleblowers** are not investigators. Neither do they determine what, if any, corrective, remedial or disciplinary action may be warranted where a disclosure of wrongdoing is substantiated.

**PURPOSE:**

1. The Municipality has a responsibility to conduct its business operations in a legal and proper manner. A proper manner means with honesty and integrity.
2. To that end, Council is committed to compliance with the laws and regulations to which we are subject, and to the implementation and enforcement of policies and operating procedures that promote and foster proper practices and the proper treatment of employees, senior management, directors, customers and those with whom we do business.

3. Council has a further responsibility to prevent, deter, uncover and eliminate wrongdoing. Sound management practices and our duty to the public interest require that Council establish a formal process for the reporting, investigation and elimination of wrongdoing.
4. The purpose of this policy is to provide a mechanism for the reporting of actual or potential serious wrongdoing to a designated authority for investigation and appropriate action, and to protect those employees who report such wrongdoing in accordance with this policy, as well as those who may be wrongly or falsely accused, from undue negative repercussions.
5. Council acknowledges and understands that whistleblowing is an activity which is stressful and which, without implemented and enforced protections, can be a risky undertaking for an employee. This policy is intended to provide the necessary protections and procedures to allow employees to meet the various mandatory reporting obligations and to bring forward other disclosures of wrongdoing with reasonable assurances and safeguards to prevent undue harm or risk to the employee.

**SCOPE:**

This policy applies to any RM of Riding Mountain West employee who seeks to report actual or potential wrongdoing of which the employee is aware by virtue of his/her employment.

**PROCEDURES &/OR GUIDELINES:**

**1. How to Disclose**

Any disclosure of wrongdoing under this Policy is to be made to the Reeve by means of:

- in person;
- by telephone;
- in writing; or
- via the internet.

Be prepared to provide as much information as possible so that an adequate investigation can be conducted. An investigation will not be conducted into a disclosure which is not based on specifics or is without reasonable supporting evidence. Employees must also take reasonable care to ensure that the information is accurate and relevant. The information should be factual and should not contain conclusions or speculations. Employees must not undertake their own investigation or go looking for information which is not otherwise properly available to them in the course of their employment or to which they otherwise have a right of access. Improper accessing of information may itself constitute wrongdoing.

**2. Action and Results**

On receiving a disclosure, the Reeve shall immediately register the receipt in a log and open a file for the same, which shall be kept in a secure location. The Reeve will acknowledge receipt of any disclosure made in writing or by e-mail.

The Reeve shall then determine whether the disclosure alleges wrongdoing which is properly covered by this Policy and will reference the matter to the appropriate Standing Committee of Council. Committee, in those instances not involving the Chief Administrative Officer (CAO), to do a preliminary review to determine if the disclosure is credible and genuine. If so, the Reeve shall conduct, or direct, an internal investigation which protects the integrity of this Policy and is in keeping with the provisions of this Policy.

The CAO, at the direction of Council, may consult with any member of management who is not a subject of the allegations in the disclosure and who may have appropriate and necessary expertise to assist in

conducting the investigation, to either act as a consultant through the investigation, or to assist in recommending appropriate action.

The Reeve and CAO shall have access to all books and records of the RM. The Municipality's Councillors, management and other employees are expected to fully cooperate in an investigation. Failure to do so on the part of any employee may be met with discipline.

Investigations will be undertaken as quickly as possible, having regard to the nature and potential risk associated with the disclosure. When the alleged wrongdoing constitutes an imminent significant threat to health or safety or could have serious financial or legal consequences for the Municipality, Council may take whatever action they deem appropriate in the circumstances to prevent potential or actual wrongdoing before an investigation has been undertaken or completed.

All parties to an investigation will be treated fairly.

At the conclusion of the investigation, in those instances not involving the CAO, the CAO will determine and report back to Council in writing that: the disclosure has been substantiated; recommend, after consultation with the supervisor corrective, remedial or disciplinary actions to be taken. Each individual case will require discretion and judgment. Discipline will depend on the nature and the severity of the wrongdoing. Appropriate measures will also be taken to prevent further violations. The personal motivation of the person making the disclosure will not affect the consideration of whether or not the disclosure is valid.

Unless there exists a legal requirement or other public interest to the contrary, the person who made the disclosure of wrongdoing will be informed of the outcome of the investigation to the extent it is possible to do so.

In those instances not involving the CAO, the CAO will maintain the log of complaints and individual disclosure files, tracking the receipt, actions taken and the outcome. These records are the property of the Municipality and will be maintained in accordance with applicable laws and the Municipality's document retention policies, subject to appropriate safeguards to ensure their confidentiality, but also in a manner which will serve the Municipality's overall compliance initiatives.

In those instances not involving the CAO, the CAO will advise Council promptly of any disclosure which may have consequences for the RM.

### **3. Confidentiality**

Any disclosure made in accordance with this Policy is considered confidential but on the record.

The names of those involved in a disclosure of wrongdoing or an investigation, and the circumstances relating to the alleged wrongdoing will not be shared with anyone except as is necessary to investigate the disclosure, to take corrective, remedial or disciplinary action with regard to a substantiated wrongdoing, to comply with this Policy, or where required by law. Any sharing of information will be carefully and sensitively evaluated and done on a need-to-know basis as determined by the designated investigating authority, and can arise in the course of, or as a result of an investigation.

Any employee, member of management or Councillor, who is privy to information regarding a disclosure of wrongdoing, whether he/she made the disclosure, is entrusted with information in the course of an investigation, or otherwise has knowledge relating to the disclosure, is expected to hold the information in confidence. The failure to do so by any employee may be met with discipline.

#### **4. Protections**

This Policy offers protections from retaliation or threats of retaliation against employees who, in good faith, make a disclosure of wrongdoing in accordance with the procedures herein.

Good faith means that the employee has a reasonable and genuine belief that wrongdoing has occurred or is occurring and is not making the disclosure for personal gain or with an improper motive, and is not making a repeated disclosure where a matter has already been disclosed and a determination has been made.

Retaliation or a threat of retaliation against such an employee, or against any witness or other participant in an investigation is strictly prohibited and will not be tolerated. Any agent or contractor of the Municipality who retaliates against an employee will be subject to any remedies permitted by law including possible termination of the relationship with the Municipality.

Retaliation means any detriment to an employee's employment status or circumstances and may include:

- dismissal;
- demotion;
- suspension;
- discipline;
- harassment;
- transfer to an undesirable or inappropriate location or assignment; and,
- discrimination.

Retaliation or threats of retaliation against an employee who cooperates or assists in an investigation under this Policy is strictly prohibited and will not be tolerated.

Any employee who reasonably believes that he/she is being subjected to retaliation by another employee, the CAO, senior management, Councillor or agent of the Municipality as a result of making a disclosure of wrongdoing or cooperating or assisting in an investigation must promptly inform the person conducting the investigation. Reasonable and appropriate actions will be taken to protect the employee from retaliation. This protection does not extend so far as to insulate the employee from any repercussions if the employee was involved or complicit in the disclosed wrongdoing.

No employee or senior management of the Municipality who is not involved in an investigation under this Policy shall make any effort, or tolerate any effort, to ascertain the identity of any person involved in an investigation, whether that be the person who made the disclosure, the person who allegedly committed the wrongdoing or any witnesses.

If there is reasonable evidence that a disclosure of wrongdoing was not made in good faith, disciplinary action may be taken against the employee who made the disclosure. If an investigation uncovers no wrongdoing or if the alleged wrongdoing cannot be substantiated, but there is no evidence that the disclosure was not made in good faith, no action will be taken against the employee who made the disclosure.

#### **5. Other Assistance**

In order to assist those with knowledge of actual or potential wrongdoing to disclose such, where a disclosure of wrongdoing has been made in good faith and otherwise in accordance with this Policy, and

where the wrongdoing has been substantiated, Council may, with regard to the particular circumstances of each case, in its discretion, provide the following:

- legal advice or assistance;
- financial support for substantiated expenses;
- time away from work;
- job transfer;
- employment buyout; and,
- assistance in securing employment outside the Municipality.

## **6. Senior Management and Councillors**

A disclosure of actual or potential wrongdoing by a member of the Municipality's management or a member of the Council should be reported as follows:

- wrongdoing by any employee is to be reported to the Reeve, who in those instances not involving the CAO, refer this matter to the CAO and Council for the CAO to investigate;
- wrongdoing by the CAO is to be reported to the Reeve; and
- wrongdoing by a member of the Council is to be reported to the Reeve.

The person receiving the disclosure of wrongdoing shall investigate in accordance with the provisions of this Policy.

## **7. Other Avenues**

Any designated investigating authority under this Policy may, as deemed necessary or appropriate by such authority, retain independent legal, financial or other professional advisors to investigate any disclosure of wrongdoing, report the results of their investigation(s), and provide recommendations for appropriate corrective or remedial action.

If any investigation under this Policy leads to the reasonable conclusion that a crime has, or may have been, committed, the results of the investigation shall be reported to the appropriate law enforcement agency.

If any investigation under this Policy leads to the reasonable conclusion that an employee or member of the Council has engaged in conduct which is, or may be, a violation of an applicable code of conduct of any professional association of which the person is a member, or to which the person belongs, the results of the investigation will be reported to the professional association by the designated investigating authority.

It is possible that certain issues cannot satisfactorily be investigated internally or should not be investigated internally. Where deemed necessary or appropriate by the designated investigating authority under this Policy, such person may refer a disclosure of wrongdoing to an appropriate external authority for investigation or further action.