



VILLAGE OF CARMACKS

By-law 253-19

A BY-LAW OF THE VILLAGE OF CARMACKS IN THE YUKON TERRITORY TO PROVIDE FOR A CODE OF CONDUCT OF ELECTED OFFICIALS AND MEMBERS OF BOARDS, BODIES AND ENTITIES CREATED BY A COUNCIL

WHEREAS Council for the Village of Carmacks deem it necessary to implement a Code of Conduct; The Code of Conduct is one component, in the Village of Carmacks 's effort to create an even plane for outlining professional conduct expectations. This Code is meant to regulate the professional conduct of interactions between the Mayor, Council, Staff, and the Public in a way to preserve, protect, and maintain the dignity and reputation of the Village of Carmacks and the elected office of the Corporation.

NOW THEREFORE, The Council for the Municipality of the Village of Carmacks, in open meeting duly assembled, enacts AS FOLLOW

1 SHORT TITLE

1.1 This Bylaw may be referred to as the Code of Conduct Bylaw.

2 SEVERABILITY

2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion along with any sub-clause is deemed to be severed and the remaining sections of this bylaw is deemed to have been adopted and remains in effect.

3 PURPOSE AND PRINCIPALS

3.1 The role of Council is to provide good governance. The Council for the Village of Carmacks has direct responsibilities for municipal services to the residents of the Village.

3.2 The role of Council is to:

- 3.2.1 Represent the community as a whole and to consider the health, well-being, and interest of the community first in all deliberations;
- 3.2.2 Develop and regularly evaluate municipal policies, programs and services to ensure the community is receiving the best value and return on investment made
- 3.2.3 Ensure that administrative policies, best practices, and comprehensive procedures are in place in the municipality to implement the direction and will of Council;
- 3.2.4 Ensure the accountability and transparency of the operations of the municipality, including activities of Council and Senior Management;
- 3.2.5 Maintain the financial health, viability, and integrity of the municipality; and
- 3.2.6 Preserve and protect the integrity of the elected office each Member occupies.

3.3 As an elected Officer of the Corporation of the Municipality of Carmacks, each Member has a fiduciary duty to dispense their duties of office fairly, legally, and in the collective interest of the residents of Carmacks.

4 CORE MUNICIPAL VALUES

4.1 *SERVICE TO THE COMMUNITY*

4.1.1 To always put service excellence to the community first above service to self; and

4.2 *TRUST*

- 4.2.1 Each other;
- 4.2.2 That every Member of Council, municipal boards, bodies, or entities, Staff, and the public all share a common interest to maintain a healthy community; and
- 4.2.3 That every member of the municipality and community is doing their best to advance the interest of the municipality

4.3 RESPECT

- 4.3.1 The role of Council, Councilors and the Mayor, Staff, and the Public; and
- 4.3.2 The processes in place which guides the governance of the municipality;
- 4.3.3 The freedom of thought, expression, and the right to hold different views and opinions of each person - while simultaneously recognizing that the way a person expresses their thoughts and views should not negatively impact others.

4.4 INTEGRITY

- 4.4.1 To always maintain strong moral and ethical principles and standards;
- 4.4.2 To be truthful, honest, and sincere in all dealings;
- 4.4.3 To be transparent, i.e. forth-coming, sharing of pertinent information or material which may have a material impact on decisions or discussions, with and between Council, Staff, and the Public;
- 4.4.4 To be accountable to Council, Staff, and the Public (and vice versa) for decisions made. This includes accepting ownership and to be held responsible both praises and criticism for decisions made.

5 DEFINITIONS

- 5.1 "Adequate Notice" - shall mean no less than one week and where one week's notice is not possible, as soon as possible.
- 5.2 "Complainant" - shall mean a person who initiated a complaint in accordance with this bylaw
- 5.3 "Council" - shall mean the Council of the Village of Carmacks .
- 5.4 "Fiduciary Duty" - shall mean to be in a privileged position of being entrusted with the public's confidence and being accountable to the highest degree of ethical and moral

standing.

5.5 "Member" - shall mean a Member of Council of the Village of Carmacks and/or a Member of a board, body, or entity created by the Council of the Village of Carmacks . For clarity, where specified in this document, the meaning is only limited to the specified group and where not specified, the meaning applies to both groups.

5.6 "Monetarily Affect" - shall mean to have benefited from a matter directly or indirectly through:

5.6.1 A corporation in which the person is a shareholder, director, or officer;

5.6.2 A society in which the person is a member, officer, or employee; or

5.6.3 A partnership or firm of which the person is a member.

5.7 "Natural Justice" - shall mean to encapsulate the principle of procedural fairness and not be concerned with the correctness of the decision. Natural Justice also includes the following requirements:

5.7.1 The provision of adequate notice to both the Complainant and Subject of an investigation of the nature of the proceedings, and of the issue to be decided;

5.7.2 Disclosure of the nature of the case, all evidence in the possession of the Village which may be used against a Subject of an investigation, depending on the nature of the case. Where there is a reasonable fear that the Complainant may be subjected to reprisal by the Subject of a complaint or where confidentiality is deemed necessary so as to protect the integrity of the investigation, the Village of Carmacks shall be under no obligation to release the identity of the Complainant prior to the conclusion of the investigation;

5.7.3 The Complainant and Subject of a complaint must be provided with an opportunity to present one case to whatever evidence they wish to be considered prior to the conclusion of the case. Submissions shall not be limited to oral format but shall include written submissions as well;

5.7.4 The Complainant and Subject of a complaint must be immediately informed of any evidence in the Village's possession in the course of an investigation and be provided with an opportunity to respond to any evidence in a timely manner;

- 5.7.5 The Village of Carmacks is bound to consider all pertinent evidence, material, and information brought forward by the Complainant or Subject of an investigation;
- 5.7.6 The Complainant and Subject of an investigation must be informed of when it would be appropriate to obtain legal counsel and be informed of their right to counsel when warranted;
- 5.7.7 All parties are entitled to an impartial decision free from bias;
- 5.7.8 The parties are entitled to a decision in a reasonable amount of time so as to not cause prejudice towards the Complainant or Subject of an investigation which may breach the principle of procedural fairness;
- 5.7.9 The Complainant and Subject of an investigation are entitled to be provided with reasons for a decision.
- 5.8 "Officer" - shall mean a person who is the holder of an elected office on the Council for the Corporation of the Village of Carmacks or a person who is appointed with the title Officer by the Council.
- 5.9 "Subject" - shall mean in the context of the complaint provisions of this bylaw, the person who a complaint was made against.

6 APPLICATION

- 6.1 This Code of Conduct applies to all current Members of Council including the Mayor and any Member of a board, body or entity created by Council. For clarity, in limited circumstances where specified in this bylaw, the applicable provisions shall apply to former Members of Council as well.
- 6.2 A Member of Council or a board, body, or entity created by Council shall:
- 6.2.1 Observe and comply with every provision of this Code, where applicable, as well as all other policies and procedures adopted or established by Council affecting the Member acting in their capacity as a Member;

6.2.2 Respect the integrity of the Code and inquiries and investigations conducted pursuant to it; and

6.2.3 Co-operate in every way possible in securing compliance with the application and enforcement of the Code.

6.3 No member shall:

6.3.1 Undertake any or take steps to undertake any reprisal or threaten reprisal against a Complainant or any other person for providing relevant information to facilitate an investigation of a complaint; or

6.3.2 Obstruct or attempt to obstruct any other municipal official involved in applying or furthering the objectives or requirements of this Code, in carrying out such responsibilities, or pursuing any such objectives.

6.4 All Members are required to sign the attestation document appended to this Code and return it to the Office of the Chief Administrative Officer within thirty (30) calendar days of assuming office or within one (1) week of this Code coming into effect, whichever comes first.

7 GIFTS AND PERSONAL BENEFITS

7.1 No Member shall accept a fee, advance, gift, or personal benefit that is connected directly or indirectly with the performance of their duties of office, unless permitted by the exceptions listed below:

7.1.1 Compensation authorized by law;

7.1.2 Such gifts or benefits normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;

7.1.3 Services provided without compensation by persons volunteering their time;

7.1.4 A suitable memento of a function honoring the member;

7.1.5 Food, lodging, transportation, entertainment, and other supports provided specific to a

situation where the Member is either speaking or attending in an official capacity;

7.1.6 Food and beverages consumed at an event, if:

7.1.6.1 Attendance serves a legitimate business purpose;

7.1.6.2 The total value of what the Member benefited from is reasonable and the invitation is infrequent.

8 ACCESS TO INFORMATION AND CONFIDENTIALITY

8.1 Confidential information includes any information in the possession of or received in confidence by the Municipality or Member while carrying out their duties of office or role.

8.2 No member shall disclose or release by any mean during and after their term of office or conclusion of their role, any confidential information acquired by virtue of their office or role, in either oral or written form, except when required by law or authorized by Council to do so.

8.3 No member shall use confidential information gained by virtue of their office or role with the municipality for personal or private gain, or for the gain of relatives or any person or corporation.

8.4 As outlined in the Village's Procedure Bylaw, all matters discussed "in-camera" shall remain confidential. No member shall disclose the content of any such matter, or the substance of

deliberations of the "in-camera" meeting until, Council discusses the matter at a meeting that is open to the public or releases the information to the public.

8.5 For clarity, sections 8.2 through to 8.4 shall apply during and after a person completes their term of office.

8.6 All Members shall:

8.6.1 Only be entitled to have access to information in the possession of the Village that is relevant to matters before Council or any board, body, or entity created by Council

within the municipality. For clarity, Members shall only be able to access information when there is a *bona-fide* connection between the information and the matter being discussed or considered.

8.6.2 Request information through the Office of the Chief Administrative Officer for the Village, who will be responsible for gathering the requested information or causing the information to be gathered and remitting it to the Member who made the initial request.

9 USE OF VILLAGE PROPERTY, SERVICES, AND OTHER RESOURCES

9.1 The Chief Administrative Officer as the Head of the Village's Administration (and other staff as delegated by the Chief Administrative Officer) is the only Officer of the Corporation of the Village of Carmacks that is authorized to direct the day to day uses and operations of the Village assets.

9.2 Members shall only use the Village's property or assets for activities relevant to their roles as a Member of Council and shall not obtain any personal financial gain or advantage from the use of the said property or asset.

10 IMPROPER USE OF INFLUENCE

10.1 No Member shall use their status as a Member of Council to improperly influence the actions or decisions of Staff or any other person to the private advantage of the Member or their family, friends, or associates.

10.2 For clarity, it is the responsibility of all Members to promote the priority of municipal interests over and above individual interests and to refrain from seeking to influence decision for personal gains.

11 CONFLICT OF INTEREST

11.1 Each Member of Council is required by law to take steps to guard against having a pecuniary interest(s) in the business being discussed and decided by Council. According to Section 193 of the *Municipal Act, Yukon 2002*, a Member of Council has a pecuniary interest if:

11.1.1 A matter being discussed or decided by Council could monetarily affect a Member of Council or an employer of the Member of Council;

11.1.2 A Member of Council knows or ought to have known that a matter could monetarily affect a member of their family.

11.2 While a Member of a board, body, or entity created by Council may not be bound by Territorial Law in regard to conflict of interest, for the purposes of consistency, the following sections applies:

11.2.1 A member of a board, body or entity created by Council shall have a pecuniary interest if:

11.2.1.1 A matter being discussed or decided by that board, body, or entity could monetarily affect a Member or an employer of the Member;

11.2.1.2 A member knows or ought to have known that a matter could monetarily affect a member of their family.

11.3 When a Member has a pecuniary interest in a matter that is to be considered at a Council meeting or at a meeting held by a board, body, or entity created by Council, the Member shall:

11.3.1 Not vote on any questions relating to the matter in question;

11.3.2 If present, declare to the Council or board, body, or entity created by Council the general nature of the pecuniary interest prior to any consideration of that matter;

11.3.3 Refrain from participating in any discussions of the matter; and

11.3.4 Withdraw from the meeting at or during the time that matter is being considered or voted on;

12 RESPECTFUL INTERACTIONS WITH COUNCILORS, STAFF, ENTITIES OF COUNCIL, AND THE PUBLIC

12.1 A Member shall at all times conduct themselves with propriety, decency, respect and civility, and with the understanding that all members of the public, other Members, and

staff are to be treated with dignity, courtesy, and empathy. All members further recognize that each Member is a representative of the Village and are responsible for conducting themselves with the highest degree of professionalism and decorum so as to not jeopardize the integrity of the office or role they occupy.

12.2 Each Member of Council shall, without exception, conduct themselves in accordance with the Village's Procedure Bylaw during any meetings and in a manner that demonstrates fairness, due process, and respect for differences of opinion, perspectives, and views. Each member shall while dispensing their duties, consistently demonstrate fairness, due process, and an intention to work together for the common good and furtherance of the public interest.

12.3 Each Member of a board, body, or entity created by Council shall, without exception, conduct themselves in accordance with the Terms of Reference set by Council. If the Terms of Reference is silent on respectful interactions, the following general principles shall apply:

12.3.1 During any meetings Members shall demonstrates fairness, due process, and respect for differences of opinion, perspectives, and views; and

12.3.2 Each member shall, while dispensing their duties, consistently demonstrate fairness, due process, and an intention to work together for the common good and furtherance of the public interest.

12.3.3 Councilors shall always conduct themselves with appropriate decorum , including while traveling away from the Village. As representatives of the Village of Carmacks, and leaders in the community, members are held to a higher standard of behavior and conduct, and accordingly their behavior shall be exemplary.

13 MUNICIPAL STAFF RELATIONS

13.1 All Members shall recognize and respect all staff, their efforts in providing professional and objective services and support to Council and the Village while remaining neutral.

13.2 No Member shall:

- 13.2.1 Maliciously or falsely call into question the professional or ethical reputation of any staff member;
- 13.2.2 Compel staff to engage in partisan political activities, or subject staff to threat or discrimination for refusing to engage in such activities; or
- 13.2.3 Use their authority, role, or influence to threaten, intimidate, or coerce staff, or otherwise attempt to, or improperly interfere with the lawful exercise of the duties of staff.

14 HARASSMENT

- 14.1 No member shall harass any other member, any staff, or any member of the public.
- 14.2 Any complaint of harassment involving a member shall be referred to the Chief Administrative Officer and the complaint will be dealt with in accordance with Section 20- Complaint Process.

15 RESPECTING THE DECISION-MAKING PROCESS

- 15.1 The Council of the Village of Carmacks is the legislative body accountable to residents of the community and responsible for stewarding the municipality in the provision of services. The decision-making process as outlined in the Village's Procedure Bylaw is meant to support a process whereby each Member of Council can bring forward issues, correspondence, secondary and supporting material for debate and consideration by Council.
- 15.2 Each Council Member affirms that Council is the only entity that has the authority for all decision- making at the municipality.
- 15.3 No Member of Council shall:
 - 15.3.1 Purport to speak on behalf of Council while expressing views without the approval of Council;
 - 15.3.2 Purport to prejudice or bind Council's future decision; and
 - 15.3.3 Provide unilateral direction to Staff without the approval of Council;

15.4 All Members of Council recognize that once Council makes a decision, individual Councilors and the Mayor, must respect the decision and shall not directly or indirectly attempt to undermine said decision of Council.

16 RESPECTING THE VILLAGE'S BYLAWS AND POLICIES

16.1 No Member shall use the influence of their office or role for any purpose other than for the lawful exercise of their official duties and for municipal purposes.

16.2 A member shall:

16.2.1 Encourage the public, perspective contractors, and others to abide by the Village's bylaws and policies including this code; and

16.2.2 Accurately communicate the public decision of Council or of a board, body, or entity created by Council, even if they disagree with the majority decision and by doing so, affirm the respect and integrity of the decision-making process.

17 COMMUNICATING ON BEHALF OF THE MUNICIPALITY

17.1 Each Member is responsible for promoting public confidence by respecting established processes for communicating with the public. For clarity, each Member of Council and not a member of a board, body, or entity created by Council, is also responsible for regularly reviewing current processes for communicating and finding new ways to keep the public informed of municipal operations and to maintain the public's confidence.

17.2 Each Member shall:

17.2.1 Defer and redirect any communication pertaining to municipal operations to the Chief Administrative Officer of the Village;

17.2.2 Coordinate among themselves as Council or a board, body, or entity created by Council and appoint a spokesperson to speak on behalf of the group. For clarity, unless otherwise decided by a Resolution of Council, the default spokesperson for Council shall be the Mayor.

18 COMMUNICATING PUBLICLY WITHOUT COUNCIL'S APPROVAL

- 18.1 While recognizing the importance of engaging the public online or otherwise, Members of Council, Boards, Bodies, and Entities created by Council are cautioned of the potential impacts of engaging without the knowledge and support of Council.
- 18.2 If a Member chooses to speak publicly on a Subject matter that was not brought before Council, the Member must state, prior to communicating their view on the matter, that they are not speaking on behalf of Council or the Village of Carmacks . The Member must also state the capacity with which they speak for or on behalf, for example, themselves as a resident, on behalf or another organization or entity.
- 18.2.1 If a Member does speak as stated in 18.2, as a courtesy, the Member will inform the rest of the Council as soon as possible, so that Council is fully aware of all communications.

19 PERSONAL POLITICAL ACTIVITIES & ADVOCACY

- 19.1 No Member shall use the Village's resources for any type of personal political activities while occupying elected office unless said activities are being done in the interest of the Village and is sanctioned by Council.

20 COMPLAINT PROCESS

- 20.1 For clarity, the jurisdiction of the Chief Administrative Officer to investigate a matter internally resides only on the basis of alleged violation of this Code or other municipal policies where said policy provides the authority for the Chief Administrative Officer to be able to conduct an investigation.
- 20.2 The complaint and subsequent handling of any review or investigation of allegations must be done within the confines of the principle of "Natural Justice" as defined within this bylaw.
- 20.3 A complaint that a Member has contravened the Code may be initiated by any person, any Member, or by Council as follows:

20.3.1 A complaint shall be made in the form attached as Appendix Band is to be sent directly to the Chief Administrative Officer by mail, email, fax, or courier;

20.3.2 A complaint shall be made in writing and must be signed and dated by the Complainant who shall be an identifiable individual (complaints may not be submitted by any group, organization, or corporation);

20.3.3 The alleged violation shall have taken place within sixty (60) calendar days of filing the complaint with the Chief Administrative Officer;

20.3.4 A complaint shall include:

20.3.4.1 A detailed explanation of the situation or circumstances giving rise to the complaint, with specific reference to the sections of the Code believed to have been violated;

20.3.4.2 Any evidence in support of the allegation; and

20.3.4.3 Any witness in support of the allegation must be identified.

20.3.5 The Chief Administrative Officer shall undertake an initial review of a complaint that has been filed and shall determine whether the matter relates to non-compliance with the Code or other policies applying to the Member.

20.3.6 If the Chief Administrative Officer believes there may have been a violation of the Code, the Chief Administrative Officer must then decide if an investigation is required. The Chief Administrative Officer shall do one of two things depending on the circumstances and nature of the complaint.

20.3.6.1 If the complaint relates to an allegation(s) of a criminal nature consistent with Territorial Law and or the Criminal Code of Canada, the Chief Administrative Officer shall immediately refer the matter to the local Police Service for investigation and inform the Complainant that pursuit of such allegation(s) must be made through the local Police Service.

20.3.6.2 If the complaint relates to an allegation of a matter that is consistent with the violation of a Municipal Policy such as this Code; then, the Chief Administrative

Officer shall appoint an investigator to investigate the matter.

20.4 The Chief Administrative Officer in deciding who to appoint to investigate the matter, shall, based on their professional judgement and depending on the nature of the complaint, appoint an investigator from the following list with the goal of limiting the potential for reprisal, the potential for undue influence or interference, or to reduce the potential of a perception of bias in the investigatory process:

20.4.1.1.1 The Chief Administrative Officer;

20.4.1.1.2 A third party, non-municipal person or entity, example Community Advisor-Ministry of Community Services; or

20.4.1.1.3 Or joint team of investigators from a combination of the 20.4.1.1.1 to 20.4.1.1.2.

20.5 All Members shall fully cooperate with the investigation process;

20.6 At the conclusion of the investigation, the investigator(s) shall provide a report of their investigatory findings to the Council and recommendation for remedy, should a remedy be required. The report shall provide clear basis for the findings and rationale for any sanction or remedy being recommended.

20.7 The Member or Subject of the investigation and potential sanction or remedy shall be provided with a copy of the report and recommended sanction or remedy, if any, and provided with an opportunity to comment, written or otherwise, on the proposed findings and sanctions or remedy.

20.8 Council shall, within 15 calendar days of receiving the report or at the next Council Meeting, review and discuss the report in camera. For clarity, if a Council Member is the Subject of the investigation, this Member shall declare a conflict of interest, recuse themselves from the discussions and deliberation of the matter and remove themselves from the room.

20.9 When Council is in a position to decide the remedy of a Subject of a substantiated complaint and where there is evidence of impartiality or a significant concern of impartiality, contrary to the principles of Natural Justice, Council may recuse itself from making a decision on the remedy to impose. In such circumstances, Council may by a majority vote, adopt the full or part recommendation(s) of remedy noted the investigator(s), if any is provided. If no recommended remedy is provided, Council reserves the right to add this component to the scope of the investigator.

20.10 No disciplinary action or otherwise recriminatory action may be recommended or taken against a member, staff member or public who makes a complaint in good faith, regardless of the outcome of the investigation.

21 PENALTIES

21.1 Upon receipt of a final report and the recommendations of the investigator(s), Council may by resolution, impose one or a combination of the following penalties where it was determined by the investigation that a violation of the Code occurred and where Council has chosen to not implement section 20.9:

21.1.1 Order the parties to take part in an independent alternative dispute resolution process, if multiple parties are involved, which may include a mediator;

21.1.2 Reprimand the Member; or

21.1.3 Dock the remuneration paid to the Member in respect of their services as a Member for up to \$300.00.

REPEAL

By-law 77-97 is hereby repealed.

ENACTMENT

This bylaw shall come into force and effect on the final passage thereof.

READINGS

Read a first time on the day of January 2019.

Read a second time on the day of , 2019

Read a third time and adopted on the day of , 2019.

MAYOR BODIE

CAO THOMAS

Appendix A - Attestation Document

_____ (Print Name) certify and affirm, that I have read and understood this document and agree to abide by its terms. I understand that I may approach the Chief Administrative Officer for guidance and advice on the interpretation of its provisions to prospective decisions that I might make.

With my signature, as a Member of Council, I confirm that I have read, understood, and accept this Code of Conduct.

(Signature)

(Date)

FOR OFFICE USE ONLY TO BE COMPLETED ONCE RECEIVED	
CHIEF ADMINISTRATIVE OFFICER	
DATE RECIEVED	

Appendix B - Code of Conduct Complaint Form

All complaints will be handled objectively, fairly, and with confidentiality so as to preserve and protect the process and the parties involved in the process. The Complainant and Subject of the complaint shall not, at any time, discuss the matter or details of the complaint, findings, or remedies, with any person other than with those directly involved.

Application Information;

Last Name:	First Name:
Street# & Name:	Town/City:
Postal Code:	Phone#:
Email Address:	Date:
Alleged Violator:	

Details of Alleged Contravention:

Date of alleged contravention:
Names and contact information of any witnesses to alleged contravention (if any):
Specific section of the Code of Conduct allegedly contravened:
Detailed factual description of alleged contravention (be as specific and thorough as possible)

FOR OFFICE USE ONLY

Received by

Date Received:

Reviewed by:

Date Reviewed:

Name & contact details of appointed Investigator:

Comments/Notes: