



TOWN OF TROPHY CLUB

1 Trophy Wood Drive
Trophy Club, Texas 76262

MEETING AGENDA

ETHICS REVIEW COMMISSION

October 29, 2024

6:00 PM

Council Chambers

CALL TO ORDER AND ANNOUNCE A QUORUM

PUBLIC COMMENT(S)

This is an opportunity for citizens to address the Board/Commission on any matter pursuant to Texas Government Code Sec. 551.007. The Board/Commission is not permitted to discuss or take action on any presentations made concerning matters that are not listed on the agenda. Presentations are limited to matters over which the Board/Commission has authority. Speakers have up to three (3) minutes or the time limit determined by the Presiding Officer. Each speaker must have submitted their request to speak by completing the Speaker's Form or may email tdixon@trophyclub.org

REGULAR ITEMS

1. Introduction of Members.
2. Overview of the Ethics Commission and General Board Training.
3. Consider the election of a Chair and Vice Chair.
4. Conduct annual review of Ethics Regulations and consider recommendations, if any.

ADJOURN

The Board/Commission may convene into executive session to discuss posted items as allowed by Texas Government Code Sections 551.071 through 551.076 and Section 551.087.

Notice is hereby given that a quorum of the Town of Trophy Club Town Council may be in attendance at this meeting. The Town Council will not deliberate or take any action.

CERTIFICATION

I do hereby certify that the Notice of Meeting was posted on the bulletin board at the Town Hall for the Town of Trophy Club, Texas, in a place convenient and readily accessible to the general public at all times on the following date and time: October 25, 2024, at 3:30 p.m., and said Notice of Meeting was also posted concurrently on the Town's website in accordance with Texas Government Code Ch. 551 at least 72 hours prior to the scheduled time of said meeting.

 /s/ Tammy Dixon
Tammy Dixon, Town Secretary

If you plan to attend this public meeting and have a disability that requires special needs, please contact the Town Secretary's Office at 6822372900, 48 hours in advance, and reasonable accommodations will be made to assist you.



ETHICS REVIEW COMMISSION COMMUNICATION

MEETING DATE: October 29, 2024

FROM: Brandon Wright, Town Manager

AGENDA ITEM: Overview of the Ethics Commission and General Board Training.

BACKGROUND/SUMMARY: The Ethics Review Commission holds a unique role, existing as a foundational component of the Town's ethical infrastructure. Although the Commission may not meet frequently, its presence underscores the Town's commitment to ethical conduct and integrity. The Commission's primary responsibilities include:

Advisory Function

The Commission may be called upon to issue advisory opinions regarding potential conflicts of interest or ethical concerns upon request. These opinions provide essential guidance and, when followed in good faith, offer protection to individuals from allegations of ethical violations.

Jurisdiction and Complaint Review

The Commission has jurisdiction to review and make findings on alleged ethical violations if a written complaint is filed, as outlined in the ordinance. Independent legal counsel is retained annually by the Town Council to ensure unbiased advice and support for Commission deliberations when needed.

Role as a Safeguard

The existence of the Ethics Review Commission serves as a safeguard within the Town's governance structure, ensuring that an independent body is always available to uphold ethical standards and respond to ethical inquiries or complaints.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

FISCAL IMPACT: There is no financial impact associated with this agenda item.

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Presentation

ACTIONS/OPTIONS:

N/A



Overview of the Ethics Review Commission

Purpose of the Ethics Review Commission

Purpose:

- To ensure ethical standards are upheld for elected officials, appointed boards, and employees of the Town.
- Administers and enforces the Code of Ethics and Conduct.

Commission Structure

Members:

- 5 members and 2 alternates, all appointed by the Town Council.
- Members must reside in the town.
- Alternates step in when necessary.

Terms of Office

Staggered Terms:

- 2-year staggered terms.
- Members can serve a maximum of two consecutive full terms.
- Vacancies filled by Town Council for the unexpired term.

Quorum

Quorum:

- Four members of the commission constitute a quorum.
- All actions require a favorable vote of three or more members.

Leadership and Meetings

- Leadership:
 - Commission elects a Chairman and Vice-Chairman for 1-year terms.
- Meetings:
 - At least once a year to review ethics regulations.
 - Can make recommendations for amendments to the Town Council.

Advisory Opinions

- Issuance of Advisory Opinions:
 - Reviews potential conflicts of interest or violations of the Code of Ethics.
 - Responds to requests from Town officials, candidates, appointees, and employees.
 - Opinions must be issued within 30 days of the request.

Legal Counsel & Jurisdiction

- The Town Attorney or independent legal counsel advises the Commission.
- Commission reviews alleged violations if a written complaint is filed in accordance with the prescribed code.
 - Commission considers possible violations of this article by town officials, candidates, appointees, and employees.

Code of Ethics and Conduct

Charter/Code Overview:

- Town Charter, Section 11.14:
 - The Town Council shall adopt by ordinance a code of ethics and conduct that is consistent with the provisions of this Charter and applicable to elected officers, appointed board, commission, and committee members, and employees of the Town.
- Code of Ordinances, Chapter 1, Article 1.05
 - Applies to elected officials, appointed board members, and Town employees.
 - Ordinance-based, consistent with the Town Charter.

THANK YOU!



Board & Commission Orientation/Training

FY 2024-2025

Purpose/Overview

To provide new and existing members with information to help them perform professionally and effectively.

General Session Topics to be Covered:

- ✓ Roles
- ✓ Meetings/Agendas
- ✓ Rules/Parliamentary Procedures
- ✓ Attendance
- ✓ Conflict of Interest
- ✓ External Training
- ✓ Town Email
- ✓ Boards & Commissions Manual
- ✓ Questions

(Some information may not be applicable to the board you serve on)

Roles

Staff Liaison

- ✓ Town Manager assigns staff liaisons
- ✓ Board Members may not direct or manage staff
- ✓ Prepare and distribute meeting calendars, agendas, etc.
- ✓ Ensure board activities adhere to Texas Open Meetings Act.
- ✓ Support staff takes meeting minutes
- ✓ Boards may request staff assistance, but significant work must be approved by the Town Manager

Roles

Chair/Vice Chair

- ✓ The Town Council appoints chair and in some instances vice chair for certain boards.
- ✓ All other chair/vice chair elected by the board.
- ✓ Appointed/Elected each October for one year.
- ✓ Chair presides over meetings and may vote.
- ✓ Vice Chair presides in the absence of chair.
- ✓ If both Chair and Vice Chair are absent, the board shall appoint one of its members to act as the presiding officer.

Roles

Alternates

- ✓ Alternates serve as voting members when a regular member is absent.
- ✓ The selection of an alternate is based on their place number.
- ✓ If alternate member #1 is unable to serve, alternate member #2 will take their place, and so on.

Roles

Responsibilities

- ✓ Representation
- ✓ Avoidance of Contacts & Individual Discussions
- ✓ Authority of Board Members

Roles

Being an Effective Board Member

- ✓ Be prepared
- ✓ Ask Questions
- ✓ Know the law
- ✓ Maintain focus
- ✓ Be courteous
- ✓ Be punctual
- ✓ Active participation
- ✓ Watch/Listen

Meetings/Agendas

- Meeting: The Texas Open Meetings act defines a “meeting” as any deliberation between a quorum of members of a governmental body at which any public business or public policy is discussed.
- Notice of Meeting
 - Notice of each meeting must be posted 72 hours prior to the meeting.
 - Each agenda must state time, place and provide “full and adequate notice” of the subjects to be considered
- Agenda
 - Call to Order
 - Public Comment (required on all agendas)
 - Law only allows Board to make a factual comment, recite an existing policy, or advise that subject will be placed on agenda at a later date.

Meetings/Agendas

- Regular Items
- Executive Session
 - All boards, commissions, committees and corporations must consult with the Town Attorney's Office prior to scheduling a closed session.
 - Closed meetings are authorized under the Texas Open Meetings Act only under certain cases
- Adjourn

Rules/ Parliamentary Procedure

Parliamentary Procedure is a set of rules for conduct at meetings, that allows everyone to be heard & to make decisions without confusion. The Town uses Robert's Rules as a "guide".

I move to amend a motion by...

I move to recess the meeting

I move to end debate

I move to table

Point of privilege

Point of order

I move to postpone

Call the question



Attendance

Your attendance at meetings is very important and is documented by your staff liaison. A report is provided to Town Council during the annual appointment/reappointment process for review & consideration.



Applicable to all members – regular or alternate positions.

Conflict of Interest

Members must carefully review the City Code of Ethics upon appointment. If a Member has a conflict of interest regarding any item that is presented or required to be presented to the body for discussion or approval, the Member must

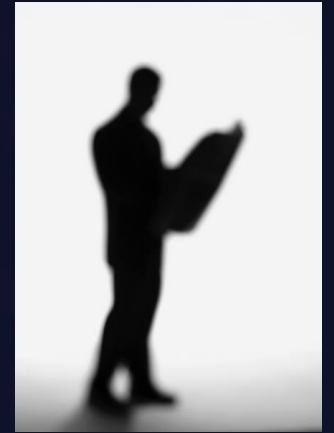
- (1) file a written statement to disclose the conflict of interest to the Chair and remaining Members;
- (2) abstain from any discussion on the matter with City staff or any other Members; and
- (3) recuse themselves from the meeting when the item is being discussed or considered by the body

External Training Opportunities



Periodically, and if funds are available in the budget, the staff liaison and/or the Town Secretary's Office will make you aware of local training opportunities that would be beneficial in your role as a board member that you may want to take advantage of.

Media Relations & Social Media Postings



Word of Caution:

Be cautious when communicating with the media or posting information on social media sites using your title so it doesn't give the impression you are making a statement or opinion that is representative of the entire board or commission you serve on.

Town Email

All board members receive a town e-mail.

- Use of Town Email for Official Business
- Compliance with Texas Public Information Act.
- Texas Open Meetings Act Considerations
- Requests for Information



BOARD & COMMISSION MANUAL



A new manual has been drafted and will be distributed to each board member following Town Council approval.

Questions





ETHICS REVIEW COMMISSION COMMUNICATION

MEETING DATE: October 29, 2024

FROM: Brandon Wright, Town Manager

AGENDA ITEM: Conduct annual review of Ethics Regulations and consider recommendations, if any.

BACKGROUND/SUMMARY: The purpose of this agenda item is to facilitate the Ethics Commission's annual review of the Code of Ethics and Conduct ordinance. As specified in Section 1.05.006(g) of the Town's Code of Ordinances, the commission is required to meet at least once each year to review the ordinance and ensure it aligns with current standards and best practices. This review allows the commission to address any areas needing clarification or updates, maintaining the ordinance's relevance and effectiveness in guiding ethical conduct within the Town.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Presentation
2. Code of Ethics Ordinance

ACTIONS/OPTIONS:

Review of Ethics Regulations and consider recommendations, if any.



Ethics Review Commission Ordinance Review

FY 2024-2025

Policy, applicability (1.05.001)

(a) Policy. It is hereby declared to be the policy of the town that the proper operation of democratic government requires that town officials, candidates, appointees, and employees be independent, impartial and responsible to the people of the town; that governmental decisions and policy be made in the proper channels of the governmental structure; that no town official, candidate, appointee, or employee have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his duties in the public interest; that public office and public employment are positions of public trust imposing the duty of a fiduciary upon all employees and officeholders, who are not to use their public position for personal gain; and that the public should have confidence in the integrity of its government.

(b) Applicability. To implement this policy, the town council enacts this code of ethics and conduct for all town officials, candidates, appointees and employees, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the town's public servants, but also as a basis for discipline for those who refuse to abide by its terms. The provisions of this article shall not apply to political contributions, loans, expenditures, reports or regulation of political campaigns, or the conduct of candidates in such campaigns, except as expressly provided herein.

Principles of Conduct (1.05.002)

(a) Values. The town council further believes that town officials, candidates, appointees and employees require a public trust and should recognize the importance of high ethical standards within the organization they lead or support. Essential values and ethical behaviors that town officials, candidates, appointees and employees should exemplify include the following:

- (1) Commitment beyond self.
- (2) Obedience and commitment beyond the law.
- (3) Commitment to the public good.
- (4) Respect for the value and dignity of all individuals.
- (5) Accountability to the public.
- (6) Truthfulness.
- (7) Fairness.
- (8) Responsible application of resources.

Principles of Conduct (1.05.002)

(b) Conduct. In keeping with the values set forth in subsection (a) of this section and to assist in the fulfillment of responsibilities to the individuals and communities served, each town official, candidate, appointee and employee should:

- (1) Conduct himself and operate with integrity and in a manner that merits the trust and support of the public.
- (2) Uphold all applicable laws and regulations, going beyond the letter of the law to protect and/or enhance the town's ability to accomplish its mission.
- (3) Treat others with respect, doing for and to others what the town official, candidate, appointee or employee would have done for and to himself in similar circumstances.
- (4) Be a responsible steward of the taxpayer resources.
- (5) Take no actions that could benefit the town official, candidate, appointee or employee personally at the unwarranted expense of the town, avoiding even the appearance of a conflict of interest, and exercise prudence and good judgment at all times.
- (6) Carefully consider the public perception of personal and professional actions and the effect such actions could have, positively or negatively, on the town's reputation both in the community and elsewhere.
- (7) Strive for personal and professional growth to improve effectiveness as an elected or appointed town official, candidate, appointee or employee.

Principles of Conduct (1.05.002)

(c) Interpretation. This section is a statement of principles only. Nothing in this section may be used to create a cause of action against an elected or appointed town official, candidate, appointee or employee under this article.

Definitions (1.05.003)

Appointee. A person appointed or confirmed by the mayor or town council; provided, however, for the purposes of this definition, the term “appointee” does not include municipal judges.

Business entity. A corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any other entity recognized by law.

Candidate. A person who declares for or files for any office of the town to be filled by election.

Clear and convincing evidence. Evidence that is legally and factually sufficient such that a fact-finder could reasonably form a firm belief or conviction that the allegation is true.

Compensation. Any economic benefit received in return for labor, services, property, or investment.

Economic benefit. Any money, real or personal property, purchase, sale, lease, contract, option, credit, loan, discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

Employee. A person employed by the town, including those individuals on a part-time basis, excluding independent contractors.

Definitions (1.05.003)

Family member. A person related to a town official, candidate, appointee, or employee in the first degree by consanguinity (blood) or affinity (marriage) as determined under the Texas Government Code.

Gift. A favor, hospitality, or economic benefit other than compensation but which does not include campaign contributions reported as required by state law, gifts received from a relative if given on account of kinship, or any value received by will, intestate succession, or as a distribution from an inter vivos or testamentary trust established by a spouse or ancestor.

Income. Economic benefit received.

Intentionally. A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

Knowingly. A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

Definitions (1.05.003)

Substantial interest.

(1) A person has a substantial interest in a business entity if:

(A) The interest is ownership of ten percent or more of the voting stock or shares of the business entity or ownership of either ten percent or more or \$5,000.00 or more of the fair market value of the business entity;

(B) Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year;

(C) The person holds a position of member of the board of directors or other governing board of the business entity;

(D) The person serves as an elected officer of the business entity;

(E) The person is an employee of the business entity;

(F) The person is a creditor, debtor or guarantor of the business entity in the amount of \$5,000.00 or more; or

(G) Property of the person has been pledged to the business entity or is subject to a lien in favor of the business entity in the amount of \$5,000.00 or more.

Definitions (1.05.003)

Substantial interest.

(2) A person does not have a substantial interest in a business entity if:

(A) The person holds a position as a member of the board of directors or other governing board of a business entity or governmental body;

(B) The person has been designated by the town council to serve on such board;

(C) The person receives no remuneration, either directly or indirectly, for his or her service on such board; and

(D) The primary nature of the business entity is either charitable, nonprofit or governmental.

(3) A person has a substantial interest in real property if the interest is an equitable or legal ownership interest with a fair market value of \$2,500.00 or more.

(4) A person has a substantial interest under this article if the person's family member has a substantial interest under this article.

Definitions (1.05.003)

Town official. The mayor, members of the town council, the town manager, the town attorney, the town secretary, judges of the municipal court, and individuals acting in the capacity of the aforementioned persons.

Standards of Conduct; Prohibited Acts (1.05.004)

No town official, candidate, appointee or employee, or their family member shall knowingly or intentionally:

(1) Accept or solicit any gift, favor, service or thing of value from any person, group or business entity, including a promise of future employment, that might reasonably tend to influence him in the discharge of his official duties or that the town official, candidate, appointee or employee knows or should know is being offered with the intent to influence the official conduct of the town official, candidate, appointee or employee. This prohibition shall not apply to:

- (A) An occasional non-pecuniary gift, insignificant in value;
- (B) An award publicly presented in recognition of public service;
- (C) Any gift which would have been offered or given to the town official, candidate, appointee or employee or a family member if he were not a town official, candidate, appointee, employee, or family member; or
- (D) Any travel and related expenses to attend ceremonial functions, provided that such acceptance and attendance have been approved by the town council prior to the occurrence of the ceremonial function.

Standards of Conduct; Prohibited Acts (1.05.004)

No town official, candidate, appointee or employee, or their family member shall knowingly or intentionally:

(2) Grant in the discharge of his official duties any improper favor, service or thing of value to any person, group or business entity.

(3) Disclose any confidential information gained by reason of the position of the town official, candidate, appointee or employee concerning property, operations, policies or affairs of the town, or use such confidential information to advance any personal interest, financial or otherwise, of such town official, candidate, appointee or employee, family members or third parties. This subsection shall not preclude disclosure of such confidential information in connection with any investigation or proceeding regarding whether there has been a violation of the standards of conduct set forth in this article.

(4) Use one's position or office of employment or town facilities, personnel, equipment or supplies to secure special privileges or exemptions for himself, family members or third parties or for the private gain of the town official, candidate, appointee, employee, or his family members or third parties.

Standards of Conduct; Prohibited Acts (1.05.004)

No town official, candidate, appointee or employee, or their family member shall knowingly or intentionally:

- (5) Engage in any exchange, purchase or sale of property, goods or services with the town, except:
 - (A) Rendering services to the town as a town official, candidate, appointee or employee;
 - (B) Paying taxes, fines, or utility service or filing fees;
 - (C) Executing and performing any developer's agreement or plat in compliance with laws and regulations applicable to any person; provided, however, that if any town ordinance, rule or regulation allows any discretion by the appropriate town official, appointee or employee in the interpretation or enforcement of such ordinance, rule or regulation, any such discretion shall be exercised in favor of the town in connection with any such developer's agreement or plat;
 - (D) Appointees who are not also town officials or employees of the town may engage in any exchange, purchase or sale of property, goods or services with the town, or enter into a contract with the town, provided that the board on which they are a member has no advisory function, involvement, or decision-making authority, either direct or indirect, present or prospective, with respect to the transaction in which such appointee engages or proposes to engage.

Standards of Conduct; Prohibited Acts (1.05.004)

No town official, candidate, appointee or employee, or their family member shall knowingly or intentionally:

- (6) Hold himself out as representing the town in any capacity other than that for which he was appointed, elected or hired.
- (7) Engage in or accept private employment or render a service when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independent judgment in the performance of official duties.
- (8) Make or permit the unauthorized use of town-owned vehicles, equipment, materials or property.
- (9) Grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

Standards of Conduct; Prohibited Acts (1.05.004)

No town official, candidate, appointee or employee, or their family member shall knowingly or intentionally:

(10) After termination of service or employment with the town, appear before any board or commission of the town in relation to any case, proceeding or application in which he personally participated or which was under his active consideration during the period of his service or employment.

(11) Transact any business in his official capacity with the town with a business entity in which he has a substantial interest.

(12) Perform or refuse to perform any act in order to deliberately thwart the execution of town ordinances, rules or regulations or the achievement of official town programs.

Disclosure of Interest; Abstention from Voting (1.05.005)

(a) Vote not allowed. Except as expressly provided in subsection (b) of this section, if a town official, candidate, appointee or employee has a substantial interest in a business entity or real property involved in a matter pending before such town official, candidate, appointee or employee, or the body of which he is a member, such town official, candidate, appointee or employee shall disclose such interest as provided in subsection (c) of this section and shall not vote or discuss the substance of the matter at any time with any other member of the board of which he is a member or any other body which will vote on or otherwise participate in the consideration of the matter.

Disclosure of Interest; Abstention from Voting (1.05.005)

(b) Vote allowed. If any of the following interests are involved in any matter pending before any town official, candidate, appointee or employee, or the body of which he is a member, such town official, candidate, appointee or employee shall disclose such interest as provided in subsection (c) of this section, but he shall be permitted to vote on and participate in the consideration of such matter:

(1) A matter concerning a bank or other financial institution from which the town official, candidate, appointee or employee has a home mortgage, automobile loan, or other installment loan, if the loan is not currently in default, was originally for a term of more than two (2) years and cannot be accelerated except for failure to make payments according to the terms thereof:

(2) A matter concerning a bank or other financial institution in which the town official, candidate, appointee or employee holds a savings account, checking account or certificate of deposit and which is fully insured by the U.S. government or an agency thereof;

Disclosure of Interest; Abstention from Voting (1.05.005)

(b) Vote allowed. If any of the following interests are involved in any matter pending before any town official, candidate, appointee or employee, or the body of which he is a member, such town official, candidate, appointee or employee shall disclose such interest as provided in subsection (c) of this section, but he shall be permitted to vote on and participate in the consideration of such matter:

(3) A matter concerning a business entity with which the town official, candidate, appointee or employee has a retail or credit card account;

(4) A matter concerning the approval of substitution of collateral by a town depository bank;

(5) A matter concerning real property or a business entity in which the town official, candidate, appointee or employee has a substantial interest if the action on the matter would not have a special economic effect on the value of the property or business entity, distinguishable from the effect on the public.

Disclosure of Interest; Abstention from Voting (1.05.005)

(c) Affidavit and reporting requirement. A town official, appointee or employee shall disclose the existence of a substantial interest in a business entity or real property involved in any matter pending before such town official, appointee or employee, or the body of which he is a member or serves as the staff liaison. To comply with subsection (a) of this section, a town official, appointee or employee shall, prior to any discussion or determination of the matter, file an affidavit of disclosure as required by section 171.004 of the Texas Local Government Code, as amended, with the town secretary. To comply with subsection (b) of this section, a town official, employee or appointee shall publicly disclose in the official minutes of the body the nature of his interest. To comply with subsection (b) of this section, an employee shall notify the town manager or his designee in writing of the nature of any substantial interest that he or a family member has in a business entity or real property which would be affected by an exercise of discretionary authority by the employee and such matter shall be regulated in accordance with town policies and procedures.

Disposition of Alleged Violations (1.05.007)

(a) Form and contents of complaint. In order to file a complaint under this article, a complainant shall submit a written sworn complaint to the town secretary, which shall be notarized and shall be in the form specified below. A sworn complaint shall be based upon personal knowledge, shall allege a violation of this article, shall specify the provision(s) of this article alleged to have been violated, and shall name the town official, candidate, appointee, or employee being charged.

Disposition of Alleged Violations (1.05.007)

(c) Timely filing required. As a condition precedent to commission consideration of a complaint, such complaint shall be timely filed. A complaint alleging a violation of this article shall be filed with the town secretary within one (1) year after the date of the alleged violation in order to be considered timely. Each of the following complaints shall be deemed untimely filed and shall be returned to the complainant:

- (1) A complaint alleging a violation that occurred before the effective date of this article;
- (2) A complaint alleging a violation that occurred more than one (1) year before the date that the complaint is filed; and
- (3) A complaint filed within the period beginning on the 60th day prior to the first date of early voting for a town election and ending on the later of the regular election date or runoff election date for such election.

Disposition of Alleged Violations (1.05.007)

(e) Processing of complaint. Complaints shall be processed as follows:

(1) Acknowledgement of receipt; distribution of copies. Not later than three (3) business days after the town secretary receives a sworn complaint, the town secretary shall acknowledge the receipt of the complaint to the complainant, and, if the complaint is timely filed, shall provide a copy of the complaint to the town attorney or independent counsel and the person complained against. If a complaint is not timely filed, it shall be returned to the complainant.

Disposition of Alleged Violations (1.05.007)

(2) Attorney preliminary review. Within seven (7) business days of receipt by the town attorney or independent counsel of a complaint determined by the town secretary to have been timely filed, the town attorney or independent counsel shall review the complaint to determine whether the complaint is sufficient as to form and whether the complaint alleges sufficient facts which if accepted as true would constitute a prima facie violation of this article. Further, the complaint shall be reviewed for compliance with subsection (l) of this section.

(A) Sufficient complaint. If the town attorney or independent counsel finds that the complaint is both sufficient as to form, and accepting the facts alleged as true for the limited purpose of a threshold review, finds that the allegations would constitute a prima facie violation of this article, the complaint shall be forwarded to the commission.

(B) Insufficient or ineligible complaint. If the town attorney or independent counsel finds that the complaint is either insufficient as to form, or, accepting the facts alleged as true for the limited purpose of a threshold review, finds that the allegations would not constitute a prima facie violation of this article, the town attorney or independent counsel shall notify the town council, the commission, the complainant and the person complained against of this determination, and shall return the complaint to the complainant. Further, if the town attorney or independent counsel determines that the commission is prohibited from entertaining a complaint under the conditions set forth in subsection (l) of this section, the town attorney or independent counsel shall notify the town council, the commission, the complainant and the person complained against of this determination, and shall immediately return the complaint to the complainant.

Disposition of Alleged Violations (1.05.007)

(3) Notification of hearing date. Not later than ten (10) business days after the commission receives a complaint forwarded by the town attorney or independent counsel, the commission shall notify in writing both the person who made the complaint and the person complained against of a date for a preliminary hearing. If the commission does not hold a preliminary hearing within twenty (20) business days of its receipt of the complaint, it shall notify the person who made the complaint and the person complained against of the reasons for the delay and shall subsequently give the appropriate notifications to all parties.

Disposition of Alleged Violations (1.05.007)

(f) Complaint filed by commissioner. A complaint filed by an individual member of the commission shall be deemed to have been filed in the commission member's capacity as a private citizen and, in such event, the member of the commission filing the complaint shall not thereafter participate in any commission meeting at which such complaint is considered except as the complainant.

(g) Communications of commission members. After a complaint has been filed and during the pendency of a complaint before the commission, a member of the commission may not communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the commission; provided that a member may consult with the attorney or the town manager or his designee for the commission as to process, procedure and legal issues. Ex parte communications by or to members of the commission are prohibited.

Disposition of Alleged Violations (1.05.007)

(h) Disclosure of information prohibited. No town official, candidate, appointee, or employee shall reveal information relating to the filing or processing of a complaint, except as required for the performance of official duties or as required by law. All papers and communications relating to a complaint shall be treated as confidential unless required to be made public under the Public Information Act, court order, or other applicable law.

Disposition of Alleged Violations (1.05.007)

(i) Preliminary hearing. A preliminary hearing shall be conducted in accordance with the following:

(1) As soon as reasonably possible, but in no event more than sixty (60) days after receiving a complaint, the commission shall conduct a preliminary hearing. The issue at a preliminary hearing shall be the existence of reasonable grounds to believe that a violation of this article has occurred. The person filing a complaint shall state the alleged violation and shall describe in narrative form the testimony and other evidence which would be presented to prove the alleged violation as stated in the written complaint. Statements at a preliminary hearing shall be under oath, but there shall be no cross-examination or requests for persons or evidence issued for the hearing. Members of the commission may question the complainant, the independent counsel for the commission, or the town official, candidate, appointee or employee named in the complaint. The town official, candidate, appointee or employee named in the complaint may not be compelled to give evidence or testimony that violates his right against self-incrimination under the United States or the state constitution.

Disposition of Alleged Violations (1.05.007)

(2) The town official, candidate, appointee or employee named in the complaint shall have the opportunity to respond, but is not required to attend or make any statement. The town official, candidate, appointee or employee may describe in narrative form the testimony and other evidence which would be presented to disprove the alleged violation.

(3) The complainant and the town official, candidate, appointee or employee named in the complaint shall have the right of representation by counsel paid for at his own expense.

Disposition of Alleged Violations (1.05.007)

(4) At the conclusion of the preliminary hearing, the commission shall decide whether a final hearing should be held. If the commission determines that there are reasonable grounds to believe that a violation of this article has occurred, it shall schedule a final hearing. If the commission does not determine that there are reasonable grounds to believe that a violation of this article has occurred, the complaint shall be automatically dismissed. A decision to conduct a final hearing is not a finding that a violation has occurred. Notwithstanding the foregoing, the commission may proceed to determine the appropriate sanction if the charged town official, candidate, appointee, or employee does not object and admits the charged violation, and the commission determines that there are no fact issues to be resolved.

(5) At the preliminary hearing or at least fifteen (15) business days prior to the final hearing, the complainant, the town official, candidate, appointee or employee named in the complaint may request that the commission summon certain persons and evidence for a final hearing, if one is scheduled.

Disposition of Alleged Violations (1.05.007)

(j) Final hearing. A final hearing shall be conducted in accordance with the following:

- 1) The final hearing shall be held as expeditiously as possible following the preliminary hearing at which a determination was made by the commission that there are reasonable grounds to believe that a violation of this article occurred, but in no event shall it be held more than thirty (30) days after such determination. The commission may grant two (2) postponements of the final hearing, not to exceed fifteen (15) days each, upon the request of the town official, candidate, appointee or employee named in the complaint.
- 2) The issue at a final hearing shall be whether a violation of this article has occurred. The commission shall make its determination based on a clear and convincing evidence standard of proof. Parties to the proceeding may present testimony and evidence at the final hearing. All witnesses shall make their statements under oath. If the commission determines that a violation has occurred, it shall state its findings in writing, shall identify the particular provision(s) of this article which have been violated, and within five (5) business days shall deliver a copy of its findings to the complainant, if any, the person named in the complaint and the town secretary.

Disposition of Alleged Violations (1.05.007)

(3) If a complaint proceeds to a final hearing, the commission shall summon in writing witnesses for which it has received a written request from the complainant or from the town official, candidate, appointee or employee named in the complaint, provided that the requesting party shows good cause for the request and the request is timely submitted in accordance with subsection (i)(5) of this section. Such written summons shall be served by a constable at least ten (10) days before the date of the final hearing. Additionally, the commission may administer oaths and affirmations and receive testimony and evidence presented at the final hearing. It shall be a violation of this article for a person to fail to appear and testify before the commission in response to a written summons served ten (10) days or more prior to the scheduled time and date of final hearing. Notwithstanding the foregoing, no town official, candidate, appointee or employee named in a complaint or witness may be compelled to give evidence or testimony that violates his/her right against self-incrimination under the United States or the state constitution.

Disposition of Alleged Violations (1.05.007)

(k) Sanctions. The following sanctions are available:

(1) If the commission determines that a violation of this article has occurred, it shall proceed directly to determination of the appropriate sanction(s). A violation of this article shall not be subject to criminal penalties under the town Code of Ordinances, except for those instances specifically provided for in section 1.05.011 of this article. The commission may receive additional testimony or statements before determining sanctions, but is not required to do so. If the town official, candidate, appointee or employee named in the complaint acted in reliance upon a written opinion of the town attorney, the commission shall consider that fact.

Disposition of Alleged Violations (1.05.007)

(2) If the commission determines that a violation of this article has occurred, it shall take the following actions:

(A) If the person who committed the violation is a current employee under the jurisdiction of the town manager, the matter shall be referred to the town manager.

(B) If the person who committed the violation is the town manager, town attorney, town secretary, or a judge of the municipal court, the matter will be referred to the town council.

(C) If the person who committed the violation is a town council member, a candidate, an appointee, a former town official, or a former town employee, the matter will be referred to the town council.

Disposition of Alleged Violations (1.05.007)

(3) When referring a matter under subsection (k)(2) of this section, the commission may impose or recommend the following sanctions:

(A) Letter of notification. A letter of notification may be recommended when the commission finds that a violation of this article was clearly unintentional or when the action or conduct found to have been a violation of this article was performed by the town official, candidate, appointee, or employee in reliance on a public written opinion of the town attorney. A letter of notification must advise the town official, candidate, appointee, or employee to whom the letter is directed of any steps to be taken to avoid future violations.

(B) Letter of admonition. A letter of admonition may be recommended when the commission finds that the violation of this article was minor and/or may have been unintentional, but where the circumstances call for a more substantial response than a letter of notification.

Disposition of Alleged Violations (1.05.007)

(C) Reprimand. A reprimand may be recommended when the commission finds that a violation of this article was committed intentionally or through disregard of this article. A recommended reprimand directed to an employee shall be forwarded to the town manager. The town manager may also elect to discipline the employee in accordance with town personnel rules and procedures. A letter of reprimand directed to an elected town official shall also be transmitted to the town secretary and published in the official newspaper of the town.

(D) Removal or suspension from employment. A recommendation of removal from employment or a recommendation of suspension from employment, as well as a recommendation for length of suspension, shall be the appropriate sanction when the commission finds that a serious or repeated violation(s) of this article has been committed intentionally or through culpable disregard of this article by town employees. The final discretion to carry out such recommendations to remove or suspend from employment and the length of suspension shall be with the town manager. The town manager may also elect to discipline the employee in accordance with town policies and procedures.

Disposition of Alleged Violations (1.05.007)

(E) Censure, recall or removal from office or appointment. A letter of censure, a recommendation of recall, or a recommendation to institute proceedings for removal from office or appointment shall be the appropriate sanction when the commission finds that a serious or repeated violation(s) of this article has been committed intentionally or through culpable disregard of this article by an elected town official. A letter of censure, a recommendation of recall, or a recommendation to institute proceedings for removal from office directed to an elected town official shall also be transmitted to the town secretary and published in the official newspaper of the town. The town council and citizens of the town may take actions in accordance with the town charter. Any proceedings for removal from office shall be in compliance with provisions of the town charter and state law.

Disposition of Alleged Violations (1.05.007)

(I) Dismissal of complaint. If the complaint is dismissed because the evidence failed to establish a violation of this article, the commission shall issue a letter of dismissal or finding, and shall not entertain any other similar complaint based on substantially the same evidence.

Request for Review of Allegations (1.05.008)

Any town official, candidate, appointee or employee against whom public allegations of ethics violations have been made in the media or elsewhere has the right to file a sworn statement with the town secretary affirming their innocence, and to request the commission to review the allegations and make known its findings.

Culpability (1.05.009)

To commit a violation under any provision of this article, a person must have acted or failed to act knowingly or intentionally.

False Complaints (1.05.010)

In the event a complaint is received by the commission that is subsequently found to be baseless, and the commission deems that the complaint was filed with the intent to:

- (1) Harass the person named in the complaint;
- (2) Damage a person's reputation;
- (3) Benefit the person filing the complaint, or a third party, either personally, professionally or politically; or
- (4) Damage a related third party;

the commission may recommend the town attorney cause a complaint to be filed against such person in the municipal court. The town council or town manager, as appropriate, may take disciplinary action(s) against the individual who filed the complaint, including but not limited to disciplinary action if such complainant is an employee, appointee, or town official as allowed by personnel policies, ordinance, state law or the town charter. The commission may also recommend other action(s) be taken.

ARTICLE 1.05
CODE OF ETHICS AND CONDUCT

§ 1.05.001. Policy; applicability.

- (a) Policy. It is hereby declared to be the policy of the town that the proper operation of democratic government requires that town officials, candidates, appointees, and employees be independent, impartial and responsible to the people of the town; that governmental decisions and policy be made in the proper channels of the governmental structure; that no town official, candidate, appointee, or employee have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his duties in the public interest; that public office and public employment are positions of public trust imposing the duty of a fiduciary upon all employees and officeholders, who are not to use their public position for personal gain; and that the public should have confidence in the integrity of its government.
- (b) Applicability. To implement this policy, the town council enacts this code of ethics and conduct for all town officials, candidates, appointees and employees, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the town's public servants, but also as a basis for discipline for those who refuse to abide by its terms. The provisions of this article shall not apply to political contributions, loans, expenditures, reports or regulation of political campaigns, or the conduct of candidates in such campaigns, except as expressly provided herein.

(Ordinance 2011-03, sec. 2 (17.01), adopted 2/7/11)

§ 1.05.002. Principles of conduct.

- (a) Values. The town council further believes that town officials, candidates, appointees and employees require a public trust and should recognize the importance of high ethical standards within the organization they lead or support. Essential values and ethical behaviors that town officials, candidates, appointees and employees should exemplify include the following:
- (1) Commitment beyond self.
 - (2) Obedience and commitment beyond the law.
 - (3) Commitment to the public good.
 - (4) Respect for the value and dignity of all individuals.
 - (5) Accountability to the public.
 - (6) Truthfulness.
 - (7) Fairness.
 - (8) Responsible application of resources.

- (b) Conduct. In keeping with the values set forth in subsection (a) of this section and to assist in the fulfillment of responsibilities to the individuals and communities served, each town official, candidate, appointee and employee should:
- (1) Conduct himself and operate with integrity and in a manner that merits the trust and support of the public.
 - (2) Uphold all applicable laws and regulations, going beyond the letter of the law to protect and/or enhance the town's ability to accomplish its mission.
 - (3) Treat others with respect, doing for and to others what the town official, candidate, appointee or employee would have done for and to himself in similar circumstances.
 - (4) Be a responsible steward of the taxpayer resources.
 - (5) Take no actions that could benefit the town official, candidate, appointee or employee personally at the unwarranted expense of the town, avoiding even the appearance of a conflict of interest, and exercise prudence and good judgment at all times.
 - (6) Carefully consider the public perception of personal and professional actions and the effect such actions could have, positively or negatively, on the town's reputation both in the community and elsewhere.
 - (7) Strive for personal and professional growth to improve effectiveness as an elected or appointed town official, candidate, appointee or employee.
- (c) Interpretation. This section is a statement of principles only. Nothing in this section may be used to create a cause of action against an elected or appointed town official, candidate, appointee or employee under this article.
(Ordinance 2011-03, sec. 2 (17.02), adopted 2/7/11)

§ 1.05.003. Definitions.

Appointee. A person appointed or confirmed by the mayor or town council; provided, however, for the purposes of this definition, the term "appointee" does not include municipal judges.

Business entity. A corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any other entity recognized by law.

Candidate. A person who declares for or files for any office of the town to be filled by election.

Clear and convincing evidence. Evidence that is legally and factually sufficient such that a fact-finder could reasonably form a firm belief or conviction that the allegation is true.

Compensation. Any economic benefit received in return for labor, services, property, or investment.

Economic benefit. Any money, real or personal property, purchase, sale, lease, contract, option, credit, loan, discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

Employee. A person employed by the town, including those individuals on a part-time basis,

excluding independent contractors.

Family member. A person related to a town official, candidate, appointee, or employee in the first degree by consanguinity (blood) or affinity (marriage) as determined under the Texas Government Code.

Gift. A favor, hospitality, or economic benefit other than compensation but which does not include campaign contributions reported as required by state law, gifts received from a relative if given on account of kinship, or any value received by will, intestate succession, or as a distribution from an inter vivos or testamentary trust established by a spouse or ancestor.

Income. Economic benefit received.

Intentionally. A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

Knowingly. A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

Substantial interest.

- (1) A person has a substantial interest in a business entity if:
 - (A) The interest is ownership of ten percent or more of the voting stock or shares of the business entity or ownership of either ten percent or more or \$5,000.00 or more of the fair market value of the business entity;
 - (B) Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year;
 - (C) The person holds a position of member of the board of directors or other governing board of the business entity;
 - (D) The person serves as an elected officer of the business entity;
 - (E) The person is an employee of the business entity;
 - (F) The person is a creditor, debtor or guarantor of the business entity in the amount of \$5,000.00 or more; or
 - (G) Property of the person has been pledged to the business entity or is subject to a lien in favor of the business entity in the amount of \$5,000.00 or more.
- (2) A person does not have a substantial interest in a business entity if:
 - (A) The person holds a position as a member of the board of directors or other governing board of a business entity or governmental body;
 - (B) The person has been designated by the town council to serve on such board;
 - (C) The person receives no remuneration, either directly or indirectly, for his or her

service on such board; and

- (D) The primary nature of the business entity is either charitable, nonprofit or governmental.
- (3) A person has a substantial interest in real property if the interest is an equitable or legal ownership interest with a fair market value of \$2,500.00 or more.
- (4) A person has a substantial interest under this article if the person's family member has a substantial interest under this article.

Town official. The mayor, members of the town council, the town manager, the town attorney, the town secretary, judges of the municipal court, and individuals acting in the capacity of the aforementioned persons.

(Ordinance 2011-03, sec. 2 (17.03), adopted 2/7/11)

§ 1.05.004. Standards of conduct; prohibited acts.

No town official, candidate, appointee or employee, or their family member shall knowingly or intentionally:

- (1) Accept or solicit any gift, favor, service or thing of value from any person, group or business entity, including a promise of future employment, that might reasonably tend to influence him in the discharge of his official duties or that the town official, candidate, appointee or employee knows or should know is being offered with the intent to influence the official conduct of the town official, candidate, appointee or employee. This prohibition shall not apply to:
 - (A) An occasional non-pecuniary gift, insignificant in value;
 - (B) An award publicly presented in recognition of public service;
 - (C) Any gift which would have been offered or given to the town official, candidate, appointee or employee or a family member if he were not a town official, candidate, appointee, employee, or family member; or
 - (D) Any travel and related expenses to attend ceremonial functions, provided that such acceptance and attendance have been approved by the town council prior to the occurrence of the ceremonial function.
- (2) Grant in the discharge of his official duties any improper favor, service or thing of value to any person, group or business entity.
- (3) Disclose any confidential information gained by reason of the position of the town official, candidate, appointee or employee concerning property, operations, policies or affairs of the town, or use such confidential information to advance any personal interest, financial or otherwise, of such town official, candidate, appointee or employee, family members or third parties. This subsection shall not preclude disclosure of such confidential information in connection with any investigation or proceeding regarding whether there has been a violation of the standards of conduct set forth in this article.

- (4) Use one's position or office of employment or town facilities, personnel, equipment or supplies to secure special privileges or exemptions for himself, family members or third parties or for the private gain of the town official, candidate, appointee, employee, or his family members or third parties.
 - (5) Engage in any exchange, purchase or sale of property, goods or services with the town, except:
 - (A) Rendering services to the town as a town official, candidate, appointee or employee;
 - (B) Paying taxes, fines, or utility service or filing fees;
 - (C) Executing and performing any developer's agreement or plat in compliance with laws and regulations applicable to any person; provided, however, that if any town ordinance, rule or regulation allows any discretion by the appropriate town official, appointee or employee in the interpretation or enforcement of such ordinance, rule or regulation, any such discretion shall be exercised in favor of the town in connection with any such developer's agreement or plat;
 - (D) Appointees who are not also town officials or employees of the town may engage in any exchange, purchase or sale of property, goods or services with the town, or enter into a contract with the town, provided that the board on which they are a member has no advisory function, involvement, or decision-making authority, either direct or indirect, present or prospective, with respect to the transaction in which such appointee engages or proposes to engage.
 - (6) Hold himself out as representing the town in any capacity other than that for which he was appointed, elected or hired.
 - (7) Engage in or accept private employment or render a service when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independent judgment in the performance of official duties.
 - (8) Make or permit the unauthorized use of town-owned vehicles, equipment, materials or property.
 - (9) Grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.
 - (10) After termination of service or employment with the town, appear before any board or commission of the town in relation to any case, proceeding or application in which he personally participated or which was under his active consideration during the period of his service or employment.
 - (11) Transact any business in his official capacity with the town with a business entity in which he has a substantial interest.
 - (12) Perform or refuse to perform any act in order to deliberately thwart the execution of town ordinances, rules or regulations or the achievement of official town programs.
- (Ordinance 2011-03, sec. 2 (17.04), adopted 2/7/11)

§ 1.05.005. Disclosure of interest; abstention from voting.

- (a) Vote not allowed. Except as expressly provided in subsection (b) of this section, if a town official, candidate, appointee or employee has a substantial interest in a business entity or real property involved in a matter pending before such town official, candidate, appointee or employee, or the body of which he is a member, such town official, candidate, appointee or employee shall disclose such interest as provided in subsection (c) of this section and shall not vote or discuss the substance of the matter at any time with any other member of the board of which he is a member or any other body which will vote on or otherwise participate in the consideration of the matter.
- (b) Vote allowed. If any of the following interests are involved in any matter pending before any town official, candidate, appointee or employee, or the body of which he is a member, such town official, candidate, appointee or employee shall disclose such interest as provided in subsection (c) of this section, but he shall be permitted to vote on and participate in the consideration of such matter:
- (1) A matter concerning a bank or other financial institution from which the town official, candidate, appointee or employee has a home mortgage, automobile loan, or other installment loan, if the loan is not currently in default, was originally for a term of more than two (2) years and cannot be accelerated except for failure to make payments according to the terms thereof;
 - (2) A matter concerning a bank or other financial institution in which the town official, candidate, appointee or employee holds a savings account, checking account or certificate of deposit and which is fully insured by the U.S. government or an agency thereof;
 - (3) A matter concerning a business entity with which the town official, candidate, appointee or employee has a retail or credit card account;
 - (4) A matter concerning the approval of substitution of collateral by a town depository bank;
 - (5) A matter concerning real property or a business entity in which the town official, candidate, appointee or employee has a substantial interest if the action on the matter would not have a special economic effect on the value of the property or business entity, distinguishable from the effect on the public.
- (c) Affidavit and reporting requirement. A town official, appointee or employee shall disclose the existence of a substantial interest in a business entity or real property involved in any matter pending before such town official, appointee or employee, or the body of which he is a member or serves as the staff liaison. To comply with subsection (a) of this section, a town official, appointee or employee shall, prior to any discussion or determination of the matter, file an affidavit of disclosure as required by section 171.004 of the Texas Local Government Code, as amended, with the town secretary. To comply with subsection (b) of this section, a town official, employee or appointee shall publicly disclose in the official minutes of the body the nature of his interest. To comply with subsection (b) of this section, an employee shall notify the town manager or his designee in writing of the nature of any

substantial interest that he or a family member has in a business entity or real property which would be affected by an exercise of discretionary authority by the employee and such matter shall be regulated in accordance with town policies and procedures.

(Ordinance 2011-03, sec. 2 (17.05), adopted 2/7/11)

§ 1.05.006. Ethics review commission.

- (a) Established. An ethics review commission (commission) is hereby established to be composed of five (5) members and two (2) alternate members, all of whom shall reside in the town and shall be appointed by majority vote of the town council.
- (b) Appointment to positions. Each commission member shall occupy a position on the commission, such positions being numbered 1 through 5.
- (c) Term of office. The commission members shall be appointed to two (2) year staggered terms. Position 1 shall serve an implementation term that shall expire on September 30th of 2016 and shall expire thereafter in even-numbered years. The term for position 2 shall also expire in even-numbered years. The term for each alternate member and position 3 shall expire in odd-numbered years. No member shall serve for more than two (2) consecutive full terms. Implementation terms shall not be counted as full terms.
- (d) Vacancies. All vacancies shall be filled for the unexpired term. A member shall hold office until his successor has been appointed by the town council and shall continue to hold office after his successor has been appointed by the town council for the limited purpose of the disposition of all complaints filed during that member's term. No new member may participate in a decision regarding a complaint filed prior to the expiration of the previous member's term, but new members shall accomplish the duties of office with respect to all complaints filed after the previous member's term.
- (e) Chairman and vice-chairman. The commission shall elect a chairman and a vice-chairman to serve one (1) year terms. The vice-chairman shall act as chairman in the absence of the chairman.
- (f) Quorum. Four (4) members of the commission shall constitute a quorum, and no action of the commission shall be of any force or effect unless it is adopted by the favorable vote of three (3) or more members.
- (g) Meetings. The commission shall meet at least once a year to review this article and may make recommendations to the town council for amendments hereto.
- (h) Issuance of advisory opinions. The commission shall render advisory opinions on potential conflicts of interest or violation of this article at the request of a town official, candidate, appointee or employee subject to the terms of this article. Such advisory opinion shall be rendered within a reasonable time, but in no event later than thirty (30) days after a request is received by the commission. A copy of an advisory opinion issued to an employee shall be forwarded to the town manager. A copy of an advisory opinion issued to an appointee shall be forwarded to the town council.
- (i) Advisory opinion as defense. It shall be a defense to an alleged violation of this article that the person accused previously requested an advisory opinion of the commission and acted

on such opinion in good faith, unless material facts were omitted or misstated by the person requesting the opinion. Such advisory opinion shall also be binding on the commission in any subsequent charges concerning the person requesting the opinion.

- (j) Legal counsel.The town attorney or independent legal counsel shall be utilized to advise the commission and participate in hearings. The town council shall annually designate and retain independent counsel, who shall be a duly licensed attorney in the state.
- (k) Jurisdiction.The commission shall have jurisdiction to review and make findings concerning an alleged violation of this article by a person subject to its provisions, if a written complaint meeting the requirements set forth herein is timely filed in accordance with section 1.05.007(c) of this article.

(Ordinance 2011-03, sec. 2 (17.06), adopted 2/7/11; Ordinance 2015-28 adopted 9/22/15; Ordinance 2021-23 adopted 10/11/21)

§ 1.05.007. Disposition of alleged violations.

- (a) Form and contents of complaint.In order to file a complaint under this article, a complainant shall submit a written sworn complaint to the town secretary, which shall be notarized and shall be in the form specified below. A sworn complaint shall be based upon personal knowledge, shall allege a violation of this article, shall specify the provision(s) of this article alleged to have been violated, and shall name the town official, candidate, appointee, or employee being charged.

THE STATE OF TEXAS:

COUNTY OF DENTON:

TO: THE ETHICS REVIEW COMMISSION OF THE TOWN OF TROPHY CLUB,
TEXAS:

COMES NOW (complainant), and makes this complaint, UPON HIS/HER PERSONAL KNOWLEDGE AND UNDER OATH against (name of person complained against), and would show the Commission that: On or about the _____ day of _____, _____, (insert date of the action, or omission, complained of) _____, (name of person complained against) a/an (insert appropriate designation; Town Official, Candidate, Appointee, or Employee) of the Town of Trophy Club, Texas, violated the following provision(s) of Code of Ethics and Conduct Ordinance, Town of Trophy Club, Texas, to wit: (specify by section, subsection and paragraph number the provision(s) alleged violated) by committing the following act, or omission, to wit:

By the making and filing of this affidavit, I certify under oath that the statements contained herein are true and correct.

(Original signature and executed notary block must be included.)

- (b) Consideration of complaints.Upon the filing of a written sworn complaint meeting all requirements of this section, the commission shall consider possible violations of this article by town officials, candidates, appointees and employees.
- (c) Timely filing required.As a condition precedent to commission consideration of a

complaint, such complaint shall be timely filed. A complaint alleging a violation of this article shall be filed with the town secretary within one (1) year after the date of the alleged violation in order to be considered timely. Each of the following complaints shall be deemed untimely filed and shall be returned to the complainant:

- (1) A complaint alleging a violation that occurred before the effective date of this article;
 - (2) A complaint alleging a violation that occurred more than one (1) year before the date that the complaint is filed; and
 - (3) A complaint filed within the period beginning on the 60th day prior to the first date of early voting for a town election and ending on the later of the regular election date or runoff election date for such election.
- (d) False statements notification. The town secretary shall, in writing, advise the person filing a complaint that falsely accusing someone of a violation of this article may result in criminal prosecution, under penalty of perjury, of anyone who knowingly makes a false accusation. The town secretary shall, in writing, advise the person charged in the complaint that falsely responding to a complaint may result in criminal prosecution, under penalty of perjury, of anyone who knowingly makes a false response.
- (e) Processing of complaint. Complaints shall be processed as follows:
- (1) Acknowledgement of receipt; distribution of copies. Not later than three (3) business days after the town secretary receives a sworn complaint, the town secretary shall acknowledge the receipt of the complaint to the complainant, and, if the complaint is timely filed, shall provide a copy of the complaint to the town attorney or independent counsel and the person complained against. If a complaint is not timely filed, it shall be returned to the complainant.
 - (2) Attorney preliminary review. Within seven (7) business days of receipt by the town attorney or independent counsel of a complaint determined by the town secretary to have been timely filed, the town attorney or independent counsel shall review the complaint to determine whether the complaint is sufficient as to form and whether the complaint alleges sufficient facts which if accepted as true would constitute a prima facie violation of this article. Further, the complaint shall be reviewed for compliance with subsection (1) of this section.
 - (A) Sufficient complaint. If the town attorney or independent counsel finds that the complaint is both sufficient as to form, and accepting the facts alleged as true for the limited purpose of a threshold review, finds that the allegations would constitute a prima facie violation of this article, the complaint shall be forwarded to the commission.
 - (B) Insufficient or ineligible complaint. If the town attorney or independent counsel finds that the complaint is either insufficient as to form, or, accepting the facts alleged as true for the limited purpose of a threshold review, finds that the allegations would not constitute a prima facie violation of this article, the town attorney or independent counsel shall notify the town council, the commission, the complainant and the person complained against of this determination, and

shall return the complaint to the complainant. Further, if the town attorney or independent counsel determines that the commission is prohibited from entertaining a complaint under the conditions set forth in subsection (l) of this section, the town attorney or independent counsel shall notify the town council, the commission, the complainant and the person complained against of this determination, and shall immediately return the complaint to the complainant.

- (3) Notification of hearing date. Not later than ten (10) business days after the commission receives a complaint forwarded by the town attorney or independent counsel, the commission shall notify in writing both the person who made the complaint and the person complained against of a date for a preliminary hearing. If the commission does not hold a preliminary hearing within twenty (20) business days of its receipt of the complaint, it shall notify the person who made the complaint and the person complained against of the reasons for the delay and shall subsequently give the appropriate notifications to all parties.
- (f) Complaint filed by commissioner. A complaint filed by an individual member of the commission shall be deemed to have been filed in the commission member's capacity as a private citizen and, in such event, the member of the commission filing the complaint shall not thereafter participate in any commission meeting at which such complaint is considered except as the complainant.
- (g) Communications of commission members. After a complaint has been filed and during the pendency of a complaint before the commission, a member of the commission may not communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the commission; provided that a member may consult with the attorney or the town manager or his designee for the commission as to process, procedure and legal issues. Ex parte communications by or to members of the commission are prohibited.
- (h) Disclosure of information prohibited. No town official, candidate, appointee, or employee shall reveal information relating to the filing or processing of a complaint, except as required for the performance of official duties or as required by law. All papers and communications relating to a complaint shall be treated as confidential unless required to be made public under the Public Information Act, court order, or other applicable law.
- (i) Preliminary hearing. A preliminary hearing shall be conducted in accordance with the following:
- (1) As soon as reasonably possible, but in no event more than sixty (60) days after receiving a complaint, the commission shall conduct a preliminary hearing. The issue at a preliminary hearing shall be the existence of reasonable grounds to believe that a violation of this article has occurred. The person filing a complaint shall state the alleged violation and shall describe in narrative form the testimony and other evidence which would be presented to prove the alleged violation as stated in the written complaint. Statements at a preliminary hearing shall be under oath, but there shall be no cross-examination or requests for persons or evidence issued for the hearing. Members of the commission may question the complainant, the independent counsel for the commission, or the town official, candidate, appointee or employee named in the

complaint. The town official, candidate, appointee or employee named in the complaint may not be compelled to give evidence or testimony that violates his right against self-incrimination under the United States or the state constitution.

- (2) The town official, candidate, appointee or employee named in the complaint shall have the opportunity to respond, but is not required to attend or make any statement. The town official, candidate, appointee or employee may describe in narrative form the testimony and other evidence which would be presented to disprove the alleged violation.
 - (3) The complainant and the town official, candidate, appointee or employee named in the complaint shall have the right of representation by counsel paid for at his own expense.
 - (4) At the conclusion of the preliminary hearing, the commission shall decide whether a final hearing should be held. If the commission determines that there are reasonable grounds to believe that a violation of this article has occurred, it shall schedule a final hearing. If the commission does not determine that there are reasonable grounds to believe that a violation of this article has occurred, the complaint shall be automatically dismissed. A decision to conduct a final hearing is not a finding that a violation has occurred. Notwithstanding the foregoing, the commission may proceed to determine the appropriate sanction if the charged town official, candidate, appointee, or employee does not object and admits the charged violation, and the commission determines that there are no fact issues to be resolved.
 - (5) At the preliminary hearing or at least fifteen (15) business days prior to the final hearing, the complainant, the town official, candidate, appointee or employee named in the complaint may request that the commission summon certain persons and evidence for a final hearing, if one is scheduled.
- (j) Final hearing. A final hearing shall be conducted in accordance with the following:
- (1) The final hearing shall be held as expeditiously as possible following the preliminary hearing at which a determination was made by the commission that there are reasonable grounds to believe that a violation of this article occurred, but in no event shall it be held more than thirty (30) days after such determination. The commission may grant two (2) postponements of the final hearing, not to exceed fifteen (15) days each, upon the request of the town official, candidate, appointee or employee named in the complaint.
 - (2) The issue at a final hearing shall be whether a violation of this article has occurred. The commission shall make its determination based on a clear and convincing evidence standard of proof. Parties to the proceeding may present testimony and evidence at the final hearing. All witnesses shall make their statements under oath. If the commission determines that a violation has occurred, it shall state its findings in writing, shall identify the particular provision(s) of this article which have been violated, and within five (5) business days shall deliver a copy of its findings to the complainant, if any, the person named in the complaint and the town secretary.
 - (3) If a complaint proceeds to a final hearing, the commission shall summon in writing witnesses for which it has received a written request from the complainant or from the

town official, candidate, appointee or employee named in the complaint, provided that the requesting party shows good cause for the request and the request is timely submitted in accordance with subsection (i)(5) of this section. Such written summons shall be served by a constable at least ten (10) days before the date of the final hearing. Additionally, the commission may administer oaths and affirmations and receive testimony and evidence presented at the final hearing. It shall be a violation of this article for a person to fail to appear and testify before the commission in response to a written summons served ten (10) days or more prior to the scheduled time and date of final hearing. Notwithstanding the foregoing, no town official, candidate, appointee or employee named in a complaint or witness may be compelled to give evidence or testimony that violates his/her right against self-incrimination under the United States or the state constitution.

(k) Sanctions. The following sanctions are available:

- (1) If the commission determines that a violation of this article has occurred, it shall proceed directly to determination of the appropriate sanction(s). A violation of this article shall not be subject to criminal penalties under the town Code of Ordinances, except for those instances specifically provided for in section 1.05.011 of this article. The commission may receive additional testimony or statements before determining sanctions, but is not required to do so. If the town official, candidate, appointee or employee named in the complaint acted in reliance upon a written opinion of the town attorney, the commission shall consider that fact.
- (2) If the commission determines that a violation of this article has occurred, it shall take the following actions:
 - (A) If the person who committed the violation is a current employee under the jurisdiction of the town manager, the matter shall be referred to the town manager.
 - (B) If the person who committed the violation is the town manager, town attorney, town secretary, or a judge of the municipal court, the matter will be referred to the town council.
 - (C) If the person who committed the violation is a town council member, a candidate, an appointee, a former town official, or a former town employee, the matter will be referred to the town council.
- (3) When referring a matter under subsection (k)(2) of this section, the commission may impose or recommend the following sanctions:
 - (A) Letter of notification. A letter of notification may be recommended when the commission finds that a violation of this article was clearly unintentional or when the action or conduct found to have been a violation of this article was performed by the town official, candidate, appointee, or employee in reliance on a public written opinion of the town attorney. A letter of notification must advise the town official, candidate, appointee, or employee to whom the letter is directed of any steps to be taken to avoid future violations.
 - (B) Letter of admonition. A letter of admonition may be recommended when the

commission finds that the violation of this article was minor and/or may have been unintentional, but where the circumstances call for a more substantial response than a letter of notification.

- (C) Reprimand. A reprimand may be recommended when the commission finds that a violation of this article was committed intentionally or through disregard of this article. A recommended reprimand directed to an employee shall be forwarded to the town manager. The town manager may also elect to discipline the employee in accordance with town personnel rules and procedures. A letter of reprimand directed to an elected town official shall also be transmitted to the town secretary and published in the official newspaper of the town.
- (D) Removal or suspension from employment. A recommendation of removal from employment or a recommendation of suspension from employment, as well as a recommendation for length of suspension, shall be the appropriate sanction when the commission finds that a serious or repeated violation(s) of this article has been committed intentionally or through culpable disregard of this article by town employees. The final discretion to carry out such recommendations to remove or suspend from employment and the length of suspension shall be with the town manager. The town manager may also elect to discipline the employee in accordance with town policies and procedures.
- (E) Censure, recall or removal from office or appointment. A letter of censure, a recommendation of recall, or a recommendation to institute proceedings for removal from office or appointment shall be the appropriate sanction when the commission finds that a serious or repeated violation(s) of this article has been committed intentionally or through culpable disregard of this article by an elected town official. A letter of censure, a recommendation of recall, or a recommendation to institute proceedings for removal from office directed to an elected town official shall also be transmitted to the town secretary and published in the official newspaper of the town. The town council and citizens of the town may take actions in accordance with the town charter. Any proceedings for removal from office shall be in compliance with provisions of the town charter and state law.
- (I) Dismissal of complaint. If the complaint is dismissed because the evidence failed to establish a violation of this article, the commission shall issue a letter of dismissal or finding, and shall not entertain any other similar complaint based on substantially the same evidence.

(Ordinance 2011-03, sec. 2 (17.07), adopted 2/7/11)

§ 1.05.008. Request for review of allegations.

Any town official, candidate, appointee or employee against whom public allegations of ethics violations have been made in the media or elsewhere has the right to file a sworn statement with the town secretary affirming their innocence, and to request the commission to review the allegations and make known its findings.

(Ordinance 2011-03, sec. 2 (17.08), adopted 2/7/11)

§ 1.05.009. Culpability.

To commit a violation under any provision of this article, a person must have acted or failed to act knowingly or intentionally.

(Ordinance 2011-03, sec. 2 (17.09), adopted 2/7/11)

§ 1.05.010. False complaints.

In the event a complaint is received by the commission that is subsequently found to be baseless, and the commission deems that the complaint was filed with the intent to:

- (1) Harass the person named in the complaint;
- (2) Damage a person's reputation;
- (3) Benefit the person filing the complaint, or a third party, either personally, professionally or politically; or
- (4) Damage a related third party;

the commission may recommend the town attorney cause a complaint to be filed against such person in the municipal court. The town council or town manager, as appropriate, may take disciplinary action(s) against the individual who filed the complaint, including but not limited to disciplinary action if such complainant is an employee, appointee, or town official as allowed by personnel policies, ordinance, state law or the town charter. The commission may also recommend other action(s) be taken.

(Ordinance 2011-03, sec. 2 (17.10), adopted 2/7/11)

§ 1.05.011. Penalties.

- (a) It shall be unlawful and shall be a class C misdemeanor for any person to knowingly or intentionally violate section 1.05.007(d), 1.05.007(j)(3), or 1.05.010 of this article, and any person found guilty of such violation shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00) for each offense. Such penalty shall be in addition to all the other remedies provided herein.
- (b) A person who knowingly files a false sworn statement under this article may be subject to criminal prosecution for perjury under the laws of the state.

(Ordinance 2011-03, sec. 2 (17.11), adopted 2/7/11)