



TOWN OF TROPHY CLUB

1 Trophy Wood Drive
Trophy Club, Texas 76262

MEETING AGENDA

ETHICS REVIEW COMMISSION

April 1, 2025

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. Consider approval of the October 29, 2024, Ethics Commission meeting minutes. (Tammy Dixon, Town Secretary).
2. Discuss and recommend changes regarding Article 1.05, Code of Ethics and Conduct, of the Town's Code of Ordinances. (Brandon Wright, Town Manager)

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: March 28, 2025, at 2:15 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: April 1, 2025

FROM: Tammy Dixon, Town Secretary

AGENDA ITEM: Consider approval of the October 29, 2024, Ethics Commission meeting minutes. (Tammy Dixon, Town Secretary).

BACKGROUND/SUMMARY: The Ethics Commission held a meeting on October 29, 2024.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Minutes

ACTIONS/OPTIONS:

Move to approve the October 29, 2024 meeting minutes.

Town of Trophy Ethics Review Commission Meeting Minutes
October 29, 2024, 6:00 p.m., Regular Meeting
1 Trophy Wood Drive, Trophy Club, Texas 76262

CALL TO ORDER

Town Secretary Dixon called the meeting to order at 6:01 p.m.

ETHICS REVIEW COMMISSION MEMBERS PRESENT

Jennifer Olson

Amy Mancuso (left at 6:12 p.m.)

Julie Edwards

Jackie Ross

Mindi Bone

Lisa DeLong, Alternate

Victoria Heguy, Alternate

The alternates participated in the training but did not participate in any action items.

STAFF PRESENT

Brandon Wright, Town Manager

Tammy Dixon, Town Secretary

PUBLIC COMMENTS

There were none.

REGULAR ITEMS

1. Introduction of Members.

The members introduced themselves to each other and provided a brief background on themselves.

The Commission proceeded to item 3.

3. Consider the election of Chair and Vice Chair.

Commissioner Olson moved to elect Jackie Ross as Chair. Commissioner Edwards seconded the motion.

VOTE ON THE MOTION

AYES: Olson, Mancuso, Edwards, Ross, Bone

NAYES: None

VOTE: 5-0

Commissioner Edwards moved to elect Jennifer Olson as Vice Chair. Commissioner Mancuso seconded the motion.

VOTE ON THE MOTION

AYES: Olson, Mancuso, Edwards, Ross, Bone

NAYES: None

VOTE: 5-0

2. Overview of the Ethics Commission and General Board Training.

Town Manager Wright presented an overview of the Ethics Review Commission highlighting the following:

- Purpose of the Ethics Review Commission
- Commission Structure
- Terms of Office
- Election of Chair and Vice Chair
- Meeting Requirements
- Advisory Opinions
- Legal Counsel and Jurisdiction
- Code of Ethics and Conduct

Town Manager Wright also provided general board training, which included information on:

- Roles and Responsibilities
- Meetings and Agendas
- Parliamentary Procedures
- Attendance Requirements
- Conflict of Interest Policies
- External Training Opportunities
- Use of Town Email
- Boards and Commissions Manual

4. Conduct annual review of ethics regulations and consider recommendations, if any.

Town Manager Wright reviewed the ethics regulations ordinance with the Commission.

The Commissioners highlighted the following items for review:

- **False Complaints:** Members raised concerns over whether individuals filing complaints, even if baseless, should face retaliation or potential charges. They suggested criteria to distinguish between intentionally vexatious complaints and others.

- **Complaint Process & Transparency:** Concerns were expressed about public perception and reputational harm in cases where preliminary findings later deem complaints baseless. A review of criteria and processes for publicizing complaint details at the preliminary stage was recommended.
- **Timelines and Deadlines:** Complaints must be filed within one year of the alleged event. The Commission discussed options for extending filing timelines under “special circumstances” to allow flexibility in certain cases.
- **Financial Conflicts of Interest:** Members questioned the handling of scholarships or gifts from nonprofit organizations and whether they pose potential conflicts of interest. They recommended clarifying and potentially refining guidelines regarding financial benefits received from nonprofit entities.
- **Intentional Violations & Accountability:** Definitions of “intentionally” or “knowingly” committing a violation raised concerns. Members noted that lack of intent can sometimes be used as an excuse and recommended reviewing and clarifying these definitions in the ordinance to address possible misuse.
- **Employee Complaint Pathway:** Unlike other organizations, the town’s ordinance allows employee complaints to be handled externally through a volunteer board. The Commission suggested reviewing this process to ensure it aligns with HR standards and supports employee confidentiality and resolution efficiency.

ADOURN

Chair Ross adjourned the meeting at 7:43 p.m.

Jackie Ross, Chair

ATTEST:

Town Secretary



ETHICS REVIEW COMMISSION COMMUNICATION

MEETING DATE: April 1, 2025

FROM: Brandon Wright, Town Manager

AGENDA ITEM: Discuss and recommend changes regarding Article 1.05, Code of Ethics and Conduct, of the Town's Code of Ordinances. (Brandon Wright, Town Manager)

BACKGROUND/SUMMARY: At the October 29, 2024 meeting of the Ethics Review Commission, the board identified potential areas for modifications to the Town Code of Ordinances Section 1.05 Code of Ethics and Conduct. The requested topics are summarized below and in the presentation attached to this agenda item. Staff will review recommended changes with the commission and seek input on potential changes to be recommended to the Town Council.

1. False Complaints: The Ethics Review Commission Board introduced a concern about the potential for retaliation or charges if a complaint is deemed to be false.
2. Complaint Process & Transparency: The Ethics Review Commission Board introduced a concern about public perception and reputational harm in cases where preliminary findings later deem complaints baseless.
3. Timelines and Deadlines: The Ethics Review Commission Board introduced concerns about the requirement to file a complaint within one year and the response deadlines imposed on the town.
4. Financial Conflicts of Interest: The Ethics Review Commission introduced a concern about scholarships or gifts from nonprofits not being permissible within the current ethics ordinance.
5. Intentional Violations & Accountability: The Ethics Review Commission introduced a concern about the definitions of “intentionally” or “knowingly” committing a violation regarding being used as an excuse for possible misuse.
6. Employee Complaint Pathway: The Ethics Review Commission introduced a concern that the town’s ordinance directs complaints against employees through the volunteer ethics board hearing process instead of through the town’s administrative policies and procedures.

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
2. Redlined Ethics Ordinance

ACTIONS/OPTIONS:

This agenda item is being presented for discussion and to obtain recommendations from the Ethics Review Commission Board. Recommended ordinance changes will be forwarded to the Town Council for consideration.



Ethics Review Commission Ordinance Review

April 1, 2025

Follow Up Items from October 2024 Meeting

- **False Complaints:** Concern raised about potential for retaliation or charges if a complaint is deemed to be false.
- **Complaint Process & Transparency:** Concern expressed about public perception and reputational harm in cases where preliminary findings later deem complaints baseless.
- **Timelines and Deadlines:** Concerns about the requirement to file a complaint within one year and the response deadlines imposed on the town.

Follow Up Items from October 2024 Meeting

- **Financial Conflicts of Interest:** Concern expressed about scholarships or gifts from nonprofits not being permissible within the current ethics ordinance.
- **Intentional Violations & Accountability:** Concern raised about the definitions of “intentionally” or “knowingly” committing a violation regarding being used as an excuse for possible misuse.
- **Employee Complaint Pathway:** Concern expressed that the town’s ordinance directs complaints against employees through the volunteer ethics board hearing process instead of through the town’s administrative policies and procedures.

False Complaints

Section 1.05.010 False complaints.

- Recommend editing section to state that false complaints; when found to be filed with the intent to harass, damage reputations, benefit the complainant, or damage a third party; be filed with the district court as a criminal complaint.
 - District court (criminal complaint) requires a higher level of evidence and severity to the charge.
 - Removes potential “local politics” from the decision-making process.

Complaint Process & Transparency

Section 1.05.007(e)(2) Processing of complaint.

- Recommend adding that the preliminary attorney review include reviewing if the complainant has specific first-hand knowledge of the alleged actions.
 - If the complainant does not possess such knowledge, the attorney can determine that it is insufficient or an ineligible complaint.
 - Adds an additional step for baseless complaints to be tossed out before they become more public.

Timelines and Deadlines

- Current language requires that a complaint be brought within one (1) year after the date of the violation.
 - Staff does not recommend any changes to this section. It provides a timeliness component that gives sufficient opportunity for a complaint to be made.
- Several sections were modified to provide more time for staff and/or ethic commission review and decisions. For consistency, revised all timeline references to count “business” days.
 - Sections 1.05.007(e)2, 1.05.007(e)3, 1.05.007(i)1, 1.05.007(j)1, 1.05.007(j)3.

Financial Conflicts of Interest

Section 1.05.004 Standards of conduct; prohibited acts.

- Recommend adding a new section that addresses scholarships for training, licensing, or education programs offered by non-profit organizations as an exception to the gift ban.
 - Clarifies that it must be available to a group of employees, including their family members, where all employees of that group have equal opportunity to apply or by nominated for that award. Must be approved by the town manager.

Financial Conflicts of Interest

Section 1.05.004 Standards of conduct; prohibited acts.

- Recommend adding clarity to the 1.05.004(1)(A) by stating that insignificant in value means less than \$50 in value (follows State ethics rules).

Intentional Violations & Accountability

Section 1.05.009 Culpability

- Recommend leaving language as is. To violate the ethics ordinance, a person must have acted knowingly or intentionally.
 - Discussions with town attorney uncovered concerns that the language is very common when it comes to violating laws and ordinances and that reducing the standard would present common problems in enforcement.

Employee Complaint Pathway

- Recommend changing the complaint pathway that involves current and former town employees. The jurisdiction for employees or former employees would transfer to the town manager.
 - If a complaint is received regarding a town employee, the town attorney will conduct the preliminary review the same as the process for town officials, candidates, and appointees.
 - If the complaint has merit, the town attorney will forward the complaint to the town manager.
 - The town manager will adhere to the town's administrative procedures and policies for reviewing complaints against town employees along with any resulting disciplinary or criminal actions.

Employee Complaint Pathway

- Several sections in the ethics ordinance would be revised to reflect this change. Main sections to be revised are:
 - Section 1.05.006(k)
 - Section 1.05.007(b)
 - Section 1.05.007(e)(2)(A)
 - Section 1.05.007(k)(2)(A)
 - Section 1.05.007(k)(3)(C)
 - Section 1.05.007(k)(3)(D)

Questions / Discussion

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.

Personal Knowledge. Personal knowledge is knowledge gained by the complainant only through direct firsthand observation or the complainant's own direct sensory experience, and does not include a belief based on what someone else, other than the person who is the subject of the complaint, has said or done.

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 that is less than fifty dollars (\$50.00);
- (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.
- ~~(E)~~ Awards, grants, scholarships, or similar gifts related to training, licensing, or education offered by non-profit organizations to a group of employees, including employees' family members, where all members of the employee group have equal opportunity to apply or be nominated for and receive the award, grant, scholarship, or similar gift. Awards, grants, scholarships, or similar gifts offered under this exception must be approved by the town manager prior to receipt by the employee or employee's family member.
- ~~(D)~~
- (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 ~~or~~, 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) ~~business~~ 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 opinions 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 violations of this article ~~by a person subject to its provisions by town officials, candidates, and appointees,~~ if a written complaint meeting the requirements set forth herein is timely filed in accordance with section 1.05.007(c) of this article. The town manager shall have jurisdiction to review and make findings concerning alleged violations of this article by employees.

(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 (OR THE TOWN MANAGER IF A COMPLAINT AGAINST AN EMPLOYEE) 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, and appointees ~~and employees.~~ The town manager shall consider possible violations of this article by town employees and former town 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-ten~~ (710) 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, including, but not limited to, determining whether the complainant has Personal Knowledge, 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, that the complainant has Personal Knowledge, 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 if the complaint is against a town official, candidate, or appointee. The complaint shall be forwarded to the town manager if the complaint is against a town employee or former town employee. The town manager shall adhere to the town's administrative procedures and policies for reviewing complaints against town employees or former employees and any resulting disciplinary or criminal actions.
 - (B) Insufficient or ineligible complaint. If the town attorney or independent

counsel finds that the complaint is ~~either~~ insufficient as to form, or Personal Knowledge, 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 town manager, 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 town manager, 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-fifteen (1015)~~ 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-thirty (2030)~~ 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) business 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, or appointee ~~or employee~~ named in the

complaint. The town official, candidate, ~~or~~ 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, ~~or~~ 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, ~~or~~ 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, ~~or~~ 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, ~~or~~ 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, ~~or~~ 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~~ scheduled more than thirty (30) business days after such determination. The commission may grant two (2) postponements of the final hearing, not to exceed fifteen (15) business days each, upon the request of the town official, candidate, ~~or~~ 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, ~~or~~ 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) business 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) business days or more prior to the scheduled time and date of final hearing. Notwithstanding the foregoing, no town official, candidate, ~~or~~ 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, ~~or~~ 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)~~(A) 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)~~(B) If the person who committed the violation is a town council member, a candidate, an appointee, ~~or~~ a former town official, ~~or a former town employee, the~~ 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, ~~or~~ appointee, ~~or employee~~ in reliance on a public written opinion of the town attorney. A letter of notification must advise the town official, candidate, ~~or~~ 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)~~(D) 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 or appointed member. A letter of censure, a recommendation of recall, or a recommendation to institute proceedings for removal from office directed to an elected town official or appointed member 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, or 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 file or cause a criminal complaint to be filed for prosecution 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)