

# TOWN OF TROPHY CLUB

1 Trophy Wood Drive  
Trophy Club, Texas 76262



## MEETING AGENDA

### ETHICS REVIEW COMMISSION

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June 17, 2025

6:00 PM

Council Chambers

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#### 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](mailto:tdixon@trophyclub.org)*

#### REGULAR ITEMS

1. Consider the appointment of the Chair; and if needed, the appointment of the Vice Chair. (Tammy Dixon, Town Secretary)
2. Consider approval of the May 12, 2025, Ethics Commission meeting minutes. (Tammy Dixon, Town Secretary).
3. Consider a recommendation to the Trophy Club Town Council proposed changes to Article 1.05, Code of Ethics and Conduct, of the Town's Code of Ordinances. (Brandon Wright, Town Manager)

#### FUTURE AGENDA ITEMS

#### 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.*





## ETHICS REVIEW COMMISSION COMMUNICATION

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**MEETING DATE:** June 17, 2025

**FROM:** Tammy Dixon, Town Secretary

**AGENDA ITEM:** Consider the appointment of the Chair; and if needed, the appointment of the Vice Chair. (Tammy Dixon, Town Secretary)

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**BACKGROUND/SUMMARY:**

The position of Chair is currently vacant due to a resignation in May 2025. In accordance with the Ethics Commission's procedures, the Chair is selected by the current members and serves until the first meeting after October 2025. Commission members may consider the appointment of a new Chair at this time.

Should the current Vice Chair be appointed as Chair, the Commission may also consider appointing a new Vice Chair to fill the resulting vacancy.

**BOARD REVIEW/CITIZEN FEEDBACK:** N/A

**FISCAL IMPACT:** N/A

**LEGAL REVIEW:** N/A

**ATTACHMENTS:**

None

**ACTIONS/OPTIONS:**

Staff recommends that the Ethics Commission move to appoint a Chair; and if needed, appoint a Vice Chair.



**ETHICS REVIEW COMMISSION  
COMMUNICATION**

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**MEETING DATE:** June 17, 2025

**FROM:** Tammy Dixon, Town Secretary

**AGENDA ITEM:** Consider approval of the May 12, 2025, Ethics Commission meeting minutes.  
(Tammy Dixon, Town Secretary).

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**BACKGROUND/SUMMARY:** The Ethics Commission held a meeting on May 12, 2025.

**BOARD REVIEW/CITIZEN FEEDBACK:** N/A

**FISCAL IMPACT:** N/A

**LEGAL REVIEW:** N/A

**ATTACHMENTS:**

1. 05.12.2025 ERC draft minutes

**ACTIONS/OPTIONS:**

Move to approve the May 12, 2025, Ethics Commission meeting minutes.

Town of Trophy Ethics Review Commission Meeting Minutes  
May 12, 2025, 6:00 p.m., Regular Meeting  
1 Trophy Wood Drive, Trophy Club, Texas 76262

**CALL TO ORDER**

Chair Ross called the meeting to order at 6:01 p.m.

**ETHICS REVIEW COMMISSION MEMBERS PRESENT**

Jackie Ross, Chair

Jennifer Olson, Vice Chair

Amy Mancuso (arrived at 6:06 p.m.)

Julie Edwards

Mindi Bone

**STAFF PRESENT**

Brandon Wright, Town Manager

Dean Roggia, Town Attorney

Tammy Dixon, Town Secretary

**PUBLIC COMMENTS**

There were none.

**REGULAR ITEMS**

1. Consider approval of the April 1, 2025, Ethics Commission meeting minutes. (Tammy Dixon, Town Secretary).

Commissioner Edwards moved to approve the April 1, 2025, meeting minutes. Vice Chair Olson seconded the motion.

**VOTE ON THE MOTION**

**AYES:** Ross, Olson, Mancuso, Bone

**NAYES:** None

**VOTE:** 4-0

2. Consider a recommendation to the Trophy Club Town Council proposed changes to Article 1.05, Code of Ethics and Conduct, of the Town's Code of Ordinances. (Brandon Wright, Town Manager)

The Commission reviewed and discussed pending ordinance revisions with the Town Manager and Town Attorney. Key topics discussed included:

**False Complaints:**

Recommendation to remove the current section on false complaints and replace it with a new section addressing vexatious complaints. The revision includes a three-year prohibition for complainants who repeatedly file frivolous or groundless complaints, as defined by repeated unfounded filings.

**Timelines and Deadlines:**

Consensus to revise the timely filing requirement by extending the deadline to one year after the adjudication date of a civil or criminal charge. The Commission supported clarification that this does not apply to open-ended or indefinite delays.

**Financial Conflicts of Interest:**

Recommendations include:

- Exclude the Town Manager from eligibility for nonprofit scholarships or similar gifts.
- Require public disclosure of such gifts to the Town Council.
- Include a provision limiting receipt of these gifts to once every four years per employee/family unit.
- Add a statement affirming that gifts cannot be based on or influenced by the employee’s position with the Town.
- Require Town Manager approval for all applicable awards.

**Intentional Violations and Accountability:**

Consensus of the Commission was to remove Section 1.05.009 Culpability in its entirety.

Town Manager Wright and Town Attorney Roggia will incorporate feedback and bring a revised ordinance language to the Commission for final review before submission to the Town Council.

**ADOURN**

Chair Ross adjourned the meeting at 7:35 p.m.

\_\_\_\_\_  
, Chair

**ATTEST:**

\_\_\_\_\_  
Town Secretary



## ETHICS REVIEW COMMISSION COMMUNICATION

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**MEETING DATE:** June 17, 2025

**FROM:** Brandon Wright, Town Manager

**AGENDA ITEM:** Consider a recommendation to the Trophy Club Town Council proposed changes to Article 1.05, Code of Ethics and Conduct, of the Town's Code of Ordinances. (Brandon Wright, Town Manager)

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**BACKGROUND/SUMMARY:** At the May 13, 2025 meeting of the Ethics Review Commission, the commission reviewed potential modifications to the Town Code of Ordinances Article 1.05 Code of Ethics and Conduct. During that meeting, the commission reviewed sections related to filing false complaints, the complaint process and transparency, timelines and deadlines, financial conflicts of interest, intentional violations and accountability, and a new pathway for complaints filed against employees.

Based on feedback received from the Ethics Review Commission, staff prepared draft changes to Article 1.05 Code of Ethics and Conduct. The purpose of this agenda item is to review the draft changes in their entirety with the intent of voting on recommended changes to the Town Council.

**BOARD REVIEW/CITIZEN FEEDBACK:**

**FISCAL IMPACT:** N/A

**LEGAL REVIEW:** Town Attorney, Dean Roggia, has reviewed the draft changes to Article 1.05 Code of Ethics and Conduct.

**ATTACHMENTS:**

1. Presentation
2. DRAFT CODE OF ETHICS AND CONDUCT

**ACTIONS/OPTIONS:**

Staff recommends that the Ethics Review Commission review draft changes to Article 1.05 Code of Ethics and Conduct and provide a recommendation to the Trophy Club Town Council.



# Ethics Review Commission Ordinance Review

June 17, 2025

# Article 1.05 Code of Ethics and Conduct Review

## Revisions based on Ethics Review Commission direction from April 1 and May 13 meetings:

### *Gift & Benefit Provisions §1.05.004(1)*

#### **Expanded Exceptions for Educational Gifts:**

- Defined “insignificant in value” as less than \$50.
- Added an exception for awards, grants, scholarships, or similar gifts related to training, licensing, or education from nonprofit organizations, limited to town employees (excluding the Town Manager) and their families.
- All employees in the eligible group must have equal opportunity to apply.
- Requires:
  - Prior approval by the Town Manager.
  - Public disclosure at a Town Council Meeting.
- New 4-year limitation per recipient or family on receiving gifts from the same nonprofit.
- Authority for the Town Manager to reject such gifts was explicitly added.

# Article 1.05 Code of Ethics and Conduct Review

## *Ethics Review Commission Authority §1.05.006*

### **Modified Scope of Jurisdiction:**

- Town Manager given sole jurisdiction over employee-related complaints, separating responsibilities from the Commission. Several sections of Article 1.05 are modified to align with this change.

# Article 1.05 Code of Ethics and Conduct Review

## *Complaint Process Revisions §1.05.007*

### **Stronger Complaint Screening & Notification:**

- Explicit standard of “personal knowledge” for filing a valid complaint.
- Town Secretary authorized to share all submitted complaints with person complained against.

### **New Timely Filing Requirement:**

- Added that a complaint is timely is filed within one year of the court filing of a criminal or civil charge with a three-year maximum from the date of the alleged violation.

# Article 1.05 Code of Ethics and Conduct Review

## *Removing Culpability Section §1.05.009*

### **Remove that a person must act “knowingly” or “intentionally” to violate the Ethics Ordinance**

- Remove references to a person being able to state that they did not know or did not intentionally violate the Ethics Ordinance as a defense.

# Article 1.05 Code of Ethics and Conduct Review

## *Changing False Complaint Section to Vexatious Complaints §1.05.010*

### **Introduce Provisions to Identify and Ban Vexatious Complainants:**

- Criteria include:
  - Filing 3+ frivolous complaints in 7 years, or
  - Filing a repetitive groundless complaint against same individual in 3 years
- Enacts a sanction for vexatious complainants of a three-year ban on future complaints and dismissal of existing ones.

# 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.

**§ 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.

### § 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.

#### **§ 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 that is restricted to a group of town employees, excluding the Town Manager, and 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. Any such award, grant, scholarship, or similar gift shall be shared publicly with the Town Council during a Town Council Meeting. A limit of one (1) award, grant, scholarship, or similar gift related to training, licensing, or education every four (4) years shall be offered to any individual employee including that employee's family members. For example, a scholarship offered and accepted by an employee's child shall prohibit that child as well

as the employee and employee's family members from receiving another award, grant, scholarship, or similar gift from that same non-profit organization for a period of four (4) years. The town manager has the authority to reject any award, grant, scholarship, or similar gift given by a non-profit organization to a town 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.

**§ 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.

**§ 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 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 ~~may shall annually~~ designate and retain independent counsel, who shall be a duly licensed attorney in the state.
- (k) AuthorityJurisdiction. The commission shall have ~~jurisdiction authority~~ 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 authority to review and make findings concerning alleged violations of this article by employees.~~

**§ 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. If a filed complaint fails to meet these standards, the town secretary shall return the complaint to the complainant and the person complained against. The town secretary shall outline which provision(s) of this article have not been satisfied to accept a valid complaint.

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 timely 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. If a complaint is based on information obtained through either a civil proceeding or criminal charge, the timely filing deadline shall be extended to within one (1) year after the date that the civil proceeding or criminal complaint charge has been filed in court. It shall be the responsibility of the complainant to furnish evidence of such civil proceeding or criminal complaint at the time of filing a complaint under this article. However, in no case shall a complaint be timely filed if the complaint alleging a violation of this article be considered timely filed if it is filed more than three (3) years after the date of the alleged violation was committed. 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;
  - (3) A complaint based on information obtained through either a civil proceeding or criminal charge that is filed more than one (1) year after before the date that the civil proceeding or criminal charge complaint has been was filed in court but in no case more than three (3) years before the alleged violation; and
  - (2)(4) A complaint filed more than three (3) years after the date the alleged violation was committed, if the complaint is based on information obtained through either a civil proceeding or criminal charge; and
  - (3)(5) 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. If a complaint is timely filed and satisfies the requirements of section 1.05.007(a), 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 also, in writing, send a copy of the written complaint to the person charged in the complaint, and 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 and satisfies the requirements of section 1.05.007(a), the town secretary 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, and a copy of the complaint shall be sent to the person complained against.

- (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 satisfy the requirements of section 1.05.007(a) and 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 subsections (a) through (c) 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 and the person complained against 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 the complainant lacks 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 (1) 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~~ (4015) 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 request~~ 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. The request shall be made by certified mail, with return receipt requested, at least ten (10) business days before the date of the final hearing. 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 or refuse to appear and testify before the commission in response to a written ~~request 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.

- (1) 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. A complaint shall also be dismissed if it was filed by a person determined to be a vexatious complainant as outlined in Section 1.05.010.

~~(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.

#### **§ 1.05.009. Reserved. Culpability.**

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

#### **§ 1.05.010. ~~False complaints~~ Vexatious Complainants.**

~~The commission may find that a complainant is vexatious if the commission finds there is not reasonable probability that the complaint has merit against the town official, candidate, or appointee and that: 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~~The complainant, in the seven-year period immediately preceding the date of filing a complaint with the commission, has filed at least three (3) complaints resulting in no violations being found by the commission and found to be frivolous or groundless under the conditions of this article; or
- (2) ~~Damage a person's reputation~~The complainant, in the three-year period immediately preceding the date of filing a complaint with the commission, has filed a similar or substantially similar complaint resulting in no violations being found by the commission and found to be frivolous or groundless under the conditions of this article.;

- ~~(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 take action to determine a person who has filed a complaint as outlined herein is a vexatious complainant. A person who has been determined by the commission to be a vexatious complainant shall be prohibited from submitting a complaint under this article for a period of three (3) years as of the date of the commission's decision. Any pending complaint(s) filed by the vexatious complainant as of the date of the commission's decision shall be automatically -dismissed by the commission. ~~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.~~

#### **§ 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); ~~or~~ 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.