

Offered by Councilor Andrea J. Campbell



CITY OF BOSTON

IN THE YEAR TWO THOUSAND NINETEEN

AN ORDINANCE ESTABLISHING THE OFFICE OF INSPECTOR GENERAL WITHIN THE CITY OF BOSTON

WHEREAS, Bostonians deserve a City government that is free of corruption and waste, grounded in transparency, and accountable to the people; *and*

WHEREAS, Rather than bringing in costly outside counsel to address scandals as they arise, a City Inspector General will bring permanent, proactive, independent oversight of Boston's city government; *and*

WHEREAS, Inspectors General have been appointed at some level or public agency in 34 different states, including the Commonwealth of Massachusetts, and in cities, including Chicago, Detroit, Washington, D.C., New Orleans, Baltimore, New York City, Philadelphia, and Richmond; *and*

WHEREAS, An independent Inspector General will be able to root out corruption, identify mismanagement and waste, and make City government more accountable to residents;

NOW THEREFORE,

Be it ordained by the City Council of Boston, as follows:

SECTION 1. The City of Boston Code, Ordinances, is hereby amended in Chapter II by inserting the following Section after Section 2-15:

2-16 OFFICE OF INSPECTOR GENERAL

2-16.1 Establishment

An independent Office of Inspector General is hereby created. The Inspector General shall head the office. The purpose of the Office of Inspector General is to ensure honesty, integrity, transparency, and efficiency in City government by rooting out waste, abuse, fraud, corruption, and mismanagement.

2-16.2 Appointment, Term of Office, Removal

1. *Appointment.* The Inspector General shall be appointed by an advisory board.
 - a. The board shall consist of seven members, to be confirmed by a majority vote of the City Council following a public hearing, and nominated as follows:
 - i. One member shall be nominated by the Mayor;
 - ii. One member shall be nominated by the President of the City Council;
 - iii. One member shall be the City Auditor, ex officio;
 - iv. One member shall be Corporation Counsel, ex officio;
 - v. One member shall be nominated by the Chair of the City Council's Committee on Ways and Means; and
 - vi. Two members shall be selected from a public application process and jointly nominated by the Mayor and City Council President;
 - A. The qualifications for selection include experience with investigations, financial analysis, auditing, criminal law, public administration, management consulting, or other relevant experience.
 - B. These members must not be employed by the City or any quasi-governmental agency during their service.
 - b. Members of the advisory board must be residents of the City of Boson.
 - c. The advisory board, once confirmed, must submit to the City Clerk their appointment for Inspector General within sixty (60) days.
 - d. The advisory board members shall serve for one (1) appointment cycle. Should a vacancy occur in the Office of Inspector General, a new advisory board shall be confirmed within forty-five (45) days of notice received regarding an Inspector General's resignation or removal, or sixty (60) days prior to the conclusion of an Inspector General's term.
2. *Term of Office.* The Inspector General shall serve for a term of five (5) years. The term limit for Inspector General shall be two (2) five (5)-year terms.
3. *Removal.* The Inspector General may be removed for cause by a two-thirds (2/3) vote of City Council members serving, upon a recommendation from the Mayor, Corporation Counsel, or a City Councilor.

2-16.3 Inspector General Qualifications

The Inspector General shall be selected without regard to political affiliation, on the basis of integrity, basis for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other appropriate fields. The Inspector General shall hold at appointment, or be required to obtain within one hundred eighty (180) days after appointment, certification as a Certified Inspector General.

2-16.4 Limitations; Prohibited Activities

During his or her term, the Inspector General may not engage in an occupation for profit, except for teaching, or hold any other government office outside the duties of the Inspector General. Subject to applicable law, the Inspector General shall not solicit votes or raise monetary or in-

kind contributions for any candidate for an elective office. Subject to applicable law, the Inspector General may not hold any elective city office until two (2) years after leaving the position.

2-16.5 Jurisdiction

The powers and duties of the Inspector General shall extend to the conduct of any *covered entity*, which shall mean (1) any City employee; (2) elected official or appointed officer of the City, including heads of City or quasi-governmental departments, agencies, bureaus, and all persons exercising comparable authority; (3) member of a City or quasi-governmental board or commission; (4) individual, organization or business receiving City-granted funds or other benefits, including, but not limited to, loans, grants, tax credits, below market rate property transfers, tax increment financing, payment in lieu of taxes, or other City subsidies of any kind; (5) individual, organization or business providing goods or services to the City pursuant to a City contract; (6) individual, organization or business seeking certification of eligibility to provide goods or services to the City pursuant to a contract; (7) individual, organization or business seeking a City approval, permit, or license; or (8) City or quasi-governmental department, agency, board, commission, program, or process.

2-16.6 Powers and Duties

The Inspector General shall:

1. Audit, inspect, evaluate and investigate the activities, records, and individuals affiliated with contracts and procurements undertaken by a covered entity and any other official act or function of the entity.
2. Investigate, either in response to a complaint or on the Inspector General's own initiative, in order to detect and prevent inefficiency, waste, abuse, fraud, corruption, mismanagement, or other misconduct, (1) any City employee; (2) elected official or appointed officer of the City, including heads of City or quasi-governmental departments, agencies, bureaus, and all persons exercising comparable authority; (3) member of a City or quasi-governmental board or commission; (4) individual, organization or business receiving City-granted funds or other benefits, including, but not limited to, loans, grants, tax credits, below market rate property transfers, tax increment financing, payment in lieu of taxes, or other City subsidies of any kind; (5) individual, organization or business providing goods or services to the City pursuant to a City contract; (6) individual, organization or business seeking certification of eligibility to provide goods or services to the City pursuant to a contract; or (7) individual, organization or business seeking a City approval, permit, or license.
3. Conduct, either in response to a complaint or on the Inspector General's own initiative, in order to promote economy, efficiency, effectiveness, transparency, and integrity, a review of government operations within a City or quasi-governmental department, agency, board, commission, program, or process, identifying any inefficiencies, waste and potential for misconduct therein, and making recommendations regarding policies and methods for the elimination of inefficiencies and waste, and the prevention of misconduct.

4. Take appropriate steps to build public awareness of the Office of Inspector General and of all procedures established by the Inspector General for receiving complaints. The Inspector General shall provide information to City employees about the identification and prevention of fraud, waste, and abuse of office in City government.
5. Review pending legislation, rules, regulations, policies, and procedures of the Commonwealth, City, and quasi-governmental departments, agencies, boards, commissions, programs, or processes that may impact the work of the Office of Inspector General.
6. Report to the relevant government entity concerning results of investigations, audits, or reviews undertaken by the Office of Inspector General.
7. Issue quarterly reports to the City Council and Mayor concerning results and status of investigations, audits, and reviews undertaken by the Office of Inspector General. Reports shall also include findings and recommendations regarding program weaknesses, contracting irregularities, and other institutional problems that are discovered as a result of an investigation, audit, or review conducted by the Office of Inspector General. All reports shall be a public record and additionally published and accessible electronically to provide remote or on-line access to the reports.
8. Have access to the financial and other records of all covered entities at any time.
9. Attend any and all public meetings held by covered entities, unless discussing matters privileged or confidential by law, at any place and time without notice, subject to the discretion of the Inspector General.

2-16.7 Subpoena Powers

1. The Inspector General may subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, and enter and inspect premises within the control of any covered entity during regular business hours.
2. The Inspector General may enforce a subpoena or order for production of evidence under this section in any court of competent jurisdiction.

2-16.8 Duty to Report Illegal Acts

The Inspector General may conduct investigations into criminal, civil, and administrative matters.

If the Inspector General has probable cause to believe that a covered entity has committed or is committing an illegal act, then he or she shall promptly refer the matter to the appropriate administrative and prosecutorial authorities. The Inspector General shall continue to participate in referred investigations in concert with the appropriate authority.

2-16.9 Office Policies and Procedures, Employees

1. *Policies and Procedures.* The Inspector General shall establish policies and procedures for

receiving complaints, conducting investigations, and other internal processes. These policies and procedures shall be publically and electronically accessible.

2. Employees. The Office of Inspector General shall include an Inspector General and such deputies, assistants and other employees as deemed necessary by the Inspector General to carry out the duties of the Office. The Office of Inspector General staff shall collectively possess the variety of knowledge, skills, and experience needed to accomplish the Office of Inspector General's mission, including, attorneys, investigators and auditors who are certified public accountants. The Inspector General may hire, promote, discipline and remove employees of the office, assign duties to the employees, and supervise the performance of those duties.

2-16.10 Entity Duty to Report, Cooperation in Investigations, Obstruction

Any covered entity who has knowledge of, or receives a complaint regarding, an incident of fraud, waste, or abuse of office shall immediately report all relevant information or refer such complaint to the Office of Inspector General.

It shall be the duty of every covered entity to cooperate with the Inspector General in any investigation pursuant to this Chapter, including the prompt provision to the Inspector General any information, document, report, record, account, or other material requested by the Inspector General in connection with an investigation, audit, or review.

Any covered entity that willfully and without justification or excuse obstructs an investigation of the Inspector General by withholding documents or testimony is subject to forfeiture of office, discipline, debarment or any other applicable penalty.

This requirement and associated penalty shall be incorporated into all contracts and subcontracts to the extent necessary to make them effective against such entities.

2-16.11 Consultation Required

1. No report or recommendation that criticizes an official act shall be announced until every covered entity affected is allowed a reasonable opportunity to be heard at a hearing with the aid of counsel. The Inspector General will promulgate procedural rules for hearings.
2. After the hearing, if the Inspector General believes it necessary to make a formal report, a copy of any statement made by covered entity affected shall accompany the report.

2-16.12 Conflict of Interest; Special Counsel

Where there exists a conflict of interest between the Inspector General and another branch of City government, the Inspector General has the authority to retain an attorney licensed to practice law in Massachusetts who shall represent the Inspector General in legal proceedings. Such attorney shall not represent the City as a municipal corporation in any legal proceeding.

2-16.13 Confidentiality

Subject to any applicable state law, investigative files of the Office of Inspector General containing privileged or legally protected information shall be confidential and shall not be divulged to any person or agency, except to the United States Attorney, the Massachusetts Attorney General or Suffolk County District Attorney's Office, or as otherwise required by law.

2-16.14 Immunity

The Inspector General and his or her staff shall be, to the full extent permitted by law, immune from any suit based on any report or communication within the scope of official duties.

2-16.15 Retaliation Prohibited; Penalty

No person shall retaliate against, punish or penalize any other person for complaining to, cooperating with or assisting the Inspector General in the performance of his or her duties. Any person who violates this provision shall be subject to a fine of \$300 for each violation and any other penalties under applicable law.

2-16.16 Funding

The City shall annually appropriate funds sufficient to enable the Office of Inspector General to perform its duties. Funding shall be at a minimum .01% of the total departmental appropriations, excluding state and county assessments, debt service, pensions, unemployment compensation or other non-departmental or reserve funds.

2-16.17 Severability

If any provision, clause, part or application of this chapter is held to be invalid by a court of competent jurisdiction, then such provision, clause, part or application shall be considered separately and apart from the remainder, which shall remain in full force and effect.

SECTION 2. The provisions of this section are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions, which remain in full force and effect.

SECTION 3.

The provisions of this ordinance shall take effect immediately upon passage.

Filed in City Council: October 18, 2019