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**CITY OF BOSTON
IN CITY COUNCIL**

IN THE YEAR TWO THOUSAND TWENTY-FOUR

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

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

WHEREAS, Rather than bringing in costly outside counsel to address concerns as they arise, a City Inspector General will bring permanent, proactive, independent oversight of all Boston's City departments; *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 identify mismanagement and waste, and address and oversee complaints made against Boston City departments;

WHEREAS, The office of the independent Inspector General will enhance accountability and transparency between City departments and the Boston City Council;

NOW THEREFORE,

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

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

2-16 OFFICE OF INSPECTOR GENERAL

2-16.1 Establishment

An independent Office of Inspector General is hereby established, together with an

Accountability Advisory and Oversight Board (“AAOB”). An Inspector General shall head the office, and the AAOB shall have the membership set forth in Section 2-16.2. 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. The AAOB shall advise the Mayor, the City Council and the Inspector General

2-16.2 Appointment; Term of Office; Removal

1. *Appointment.* The Inspector General shall be appointed by the Mayor based on the qualifications prescribed in Section 2-16.3. Before making an appointment, the mayor shall consult with the AAOB. The Mayor must submit to the City Clerk the name of the person appointed Inspector General within sixty (60) days of the confirmation of the initial membership of the AAOB, or within sixty (60) days of any subsequent vacancy in the office of Inspector General.
2. The AAOB shall be constituted and operate as follows:
 - a. The board shall consist of nine 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. Four 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, or serve as an elected official, during their service.
 - b. The board shall elect one of its members as Chair.
 - c. Members of the AAOB must be residents of the City of Boston at the time of their appointment and for the duration of their term.
 - d. AAOB members shall serve without compensation.
 - e. AAOB members who are not otherwise employed by the City shall be classified as special municipal employees for the purpose of Chapter 268A of the Massachusetts General Laws.
 - f. Appointment authorities under this section shall appoint such representatives within sixty (60) days of the effective date of this ordinance. Should there be a vacancy or resignation on the Board, the relevant appointment authority under this section shall appoint a new representative within ninety (90) days.
 - g. AAOB members shall be appointed to terms of four (4) years, with the option of

reappointment for one (1) additional term. If a vacancy should arise and a new member is appointed to serve a partial term of less than two (2) years, that partial term shall not count against the term limit. The initial appointments of the members appointed by the City Council President, and the Chair of the City Council's Committee on Ways and Means shall be for (2) years; and the initial appointment of the member appointed by the Mayor shall be for three (3) years. After the initial appointments, all subsequent terms shall be for four (4) years.

- h. Should a vacancy occur in the Office of Inspector General, the Mayor shall immediately begin a search for new Inspector General candidates upon notification of the unexpected vacancy, resignation, or removal of the Inspector General, with the goal of filling the position within sixty (60) days of the vacancy.
3. *Term of Office.* The Inspector General shall serve for a term of four (4) years. The term limit for Inspector General shall be two (2) four (4)-year terms.
4. *Removal.* The Inspector General may be removed by the Mayor. The AAOB or City Council President may recommend to the Mayor to consider termination of the Inspector General for cause.

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, 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, subject to the approval of the AAOB, or hold any other government office outside the duties of the Inspector General. The Inspector General shall not solicit votes or raise monetary or in-kind contributions for any candidate for an elective office. The Inspector General may not hold any elective city office until two (2) years after leaving the position and may not have worked for the City as an employee or elected official within two (2) years of appointment.

2-16.5 Jurisdiction

The powers and duties of the Inspector General shall extend to the conduct of any *covered entity*, subject to applicable law, 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. The City shall include in the terms of any permit, approval, license, or contract a provision stating that the holder of or party to such permit, approval, license, or contract acknowledges and accepts the jurisdiction of the Inspector General as provided in this ordinance.

2-16.6 Powers and Duties

1. The Inspector General shall be authorized to conduct the following activities, subject to applicable law:
 - a. Audit, inspect, evaluate and investigate the activities, records, and individuals affiliated with contracts, subcontracts, procurements, grants, agreements, and other programmatic and financial arrangements undertaken by a covered entity and any other official act or function of the entity.
 - b. 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.
 - c. 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.
 - d. Review the reliability and validity of information provided by covered entities.
 - e. Monitor implementation of recommendations made to covered entities by the Office of Inspector General, and other audit, investigative, and law enforcement agencies.

- f. Monitor and assist any covered entity with implementation of legislation of legislative policy. The Inspector General may assign personnel to conduct, supervise, or coordinate such activity.
 - g. 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, training, and education to City employees about the identification and prevention of fraud, waste, and abuse of office in City government.
 - h. 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, and review pending legislation pertaining to procurement, to ensure language does not inadvertently create fraud vulnerabilities.
2. The Inspector General shall have the following powers with regards to covered entities, in furtherance of the duties of the Office, subject to applicable law:
- a. Direct and prompt access to all employees, records, financial information, data, reports, plans, projections, matters, contracts, memoranda, correspondence, audits, reviews, papers, books, documents, computer files, emails, instant messages, recommendations, and other materials of covered entities that the Inspector General deems necessary to facilitate an investigation, audit, inspection, or performance review.
 - b. Direct and prompt access to the head of a covered entity, when necessary for purposes related to the work of the Office.
 - c. To require reports from any covered entity regarding any matter within the jurisdiction of the Office of Inspector General.
 - d. To 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.
3. The Inspector General shall be required to issue reports, including:
- a. Report to the relevant government entity concerning results of investigations, audits, or reviews undertaken by the Office of Inspector General, and resulting referrals and recommendations of remedial actions, including the AAOB on the distribution of reports.
 - b. Issue quarterly reports concerning results and status of investigations, audits, and reviews undertaken by the Office of Inspector General to the City Council, Mayor, Boston Finance Commission, State Inspector General, and other relevant bodies as determined by the Office of Inspector General. Reports shall include findings,

recommendations, and remedial actions regarding program weaknesses, operational deficiencies and inefficiencies, 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. Reports shall also include Office performance metrics that indicate cost avoidance, cost savings, recoveries, referrals to law enforcement, and resulting criminal indictments and convictions. All reports shall be a public record and additionally published and accessible electronically to provide remote or on-line access to the reports. Reports publicly posted should redact or remove confidential information.

2-16.7 Power to Issue and Enforce Subpoenas

1. To the extent such power is granted to the City pursuant to any provision of the General Laws, 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.
1. The Inspector General may enforce a subpoena or order for production of evidence under this section in any court of competent jurisdiction to the same extent the City may pursuant to any provision of the General Laws.

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 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.

2-16.10 Referrals

1. When the Inspector General has reason to believe they must recuse themselves from a matter, the Inspector General shall refer such matter to the appropriate investigatory or law enforcement agency.
1. The Inspector General may work in coordination with, refer matters to, and receive referrals from the Boston Finance Commission of the State Inspector General.

2.16.11 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 publicly 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, inspectors, analysts, and auditors who are certified public accountants. The Inspector General may hire, promote, discipline, and remove employees of the Office, assign duties to employees, and supervise the performance of those duties.

2.16.12 Professional Standards

The Inspector General's investigations, inspections, and audits shall conform to the Association of Inspectors General professional standards, as prescribed in the Association's "Green Book," as well as The Institute of Internal Audit's professional standards, prescribed in the Institute's "Red Book," or the Government Accountability Office's "Yellow Book."

The Office of Inspector General's investigations and inspections shall be subject to a quality assurance review ("peer review") by the Association of Inspectors General every three years. The audits shall be subject to quality assurance review by a professional non-partisan objective group every three years, such as the Association of Local Government Auditors or The Institute of Internal Auditors.

The results of Quality Assurance Reviews should be publicly posted and incorporated into the quarterly report following the receipt of the review.

2-16.13 Entity Duty to Report; Cooperation in Investigations; Obstruction

Any covered entity who has knowledge of, or receives a complaint regarding, an incident of misconduct, malfeasance, misfeasance, conflicts of interest, acceptance of bribes or gratuities, 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.

2-16.14 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 a covered entity affected shall accompany the report.

2-16.15 Confidentiality

Subject to any applicable law, audit and 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, State Inspector General, Boston Finance Commission, or as otherwise required by law.

2-16.16 Immunity

The Inspector General and Office 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.

2-16.17 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 the duties of the Office. Examples of retaliation against City employees may include position transfer, demotion, and termination of employment. Any person who violates this provision shall be subject to a fine of \$300 for each violation and any other penalties under applicable law.

2-16.18 Funding

The City shall set the salary of the Inspector General at 70% of the Mayor's annual salary. The Mayor shall annually appropriate funds sufficient to enable the Office of Inspector General to perform its duties with a minimum target of appropriating at least .01% of the total departmental appropriations, excluding state and county assessments, debt service, pensions, unemployment compensation or other non-departmental or reserve funds.

2-16.19 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 within 60 days of passage.

Filed: April 3, 2024