



**City of Rochester**

City Hall Room 308A, 30 Church Street  
Rochester, New York 14614-1290  
www.cityofrochester.gov

**FINANCE  
INTRODUCTORY NO.**

394

Lovely A. Warren  
Mayor

October 27, 2020

OPI 14

TO THE COUNCIL

Ladies and Gentlemen:

Re: Charter Amendment - Office of Inspector General Legislation

Transmitted herewith for your approval is legislation amending the City Charter to create an Office of Inspector General (OIG). The OIG will be authorized to conduct a program of investigations, audits, and reviews to provide increased accountability and oversight and to assist in improving City operations and identifying fraud, waste, and illegal acts. The proposed legislation establishes the OIG's scope of jurisdiction to include all City elected officials and employees within the Executive and Legislative branches of City government, to include the Rochester Police Department.

This legislation was drafted in coordination with consultants from Bloomberg Associates and based on best practices recommended by the Association of Inspectors General (AIG). The AIG's guiding principles and standards are set forth in their *Principles and Standards for Offices of Inspectors General*, commonly known as the "Green Book" which is attached for reference.

The proposed legislation addresses a number of critical issues referenced by the AIG to include the Inspector General's (IG's) independence and powers.

**Independence**

*Article 6C-3 requires the IG to be appointed to a fixed term of five years. The IG may be removed only for misconduct, or malfeasance in office after a public hearing.*

*Article 6C-7 authorizes the IG to exercise independent judgment in determining matters to investigate and prohibits the Mayor, City Council or other City employees from obstructing an investigation, audit, or review.*

*Article 6C-12 prevents the IG from engaging in any political activity except as otherwise authorized by the law, to include membership on a political committee, participating in a political campaign, or attending political fundraising events.*

These sections reflect an increased level of independence in both fact and appearance and act as safeguards against undue influence.

Article 6C-3 creates a fixed term of office for the IG which requires a referendum vote, to be held November \_\_\_\_\_ during the general election, in accordance with General Municipal Law, Section 23. This is required since the local law curtails the power of the Mayor to remove an employee.



**Powers**

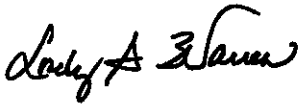
*Article 6C-5 establishes the powers of the IG to gain access to records from City employees, those who do business with the City, and those who receive City funds. In addition, it authorizes the IG to take sworn testimony, compel the attendance of witnesses, and subpoena relevant records which are critical to effectively resolve allegations of wrongdoing.*

With regard to the powers of the IG to compel witnesses and require the production of records, under the City Charter Section 6A, the Office of Management and Budget (OMB) has many of these powers.

As described in the attached AIG standards manual, the AIG conducts onsite assessments to determine whether an OIG meets Green Book standards. Subsequent to the passing of the legislation, the City of Rochester will request the AIG to conduct a peer review of its office to identify areas for improvement as well as best practices utilized by the IG community.

The creation of a City OIG will continue our efforts to promote integrity in City government and maintain the trust of those we serve.

Respectfully submitted,



Lovely A. Warren  
Mayor

RECEIVED  
CITY OF ROCHESTER  
CLERK / COUNCIL OFFICE  
2020 OCT 27 P 1:02

**Local Law amending the City Charter to establish an Office of Inspector General**

BE IT ENACTED, by the Council of the City of Rochester as follows:

Section 1. Chapter 755 of the Laws of 1907, entitled "An Act Constituting the Charter of the City of Rochester", as amended, is hereby further amended by adding a new article, Article VIC, Office of the Inspector General, to read in its entirety as follows:

Article VIC. Office of Inspector General

§6C-1. Office of Inspector General

There shall be an Office of Inspector General, the head of which shall be the Inspector General. The Office is authorized to conduct a program of investigations, audits, inspections and performance reviews to provide increased accountability and oversight and to assist in improving City operations and deterring and identifying fraud, waste, and illegal acts. The Office's scope of jurisdiction shall include all City elected officials, employees, and departments within the Mayoral and Council branches of City government, including the Rochester Police Department.

§6C-2. Appointment

The Inspector General shall be appointed by the Mayor subject to confirmation of Council in accordance with §3-3D of the City Charter. The Inspector General shall be appointed without regard to political affiliation and on the basis of integrity, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other closely related fields. The Inspector General shall report directly to the Mayor but shall be operationally independent and no City officer or employee shall prevent, impair, or prohibit the Inspector General from initiating, carrying out, or completing any audit, investigation or review. The position of Inspector General shall be the equivalent of a Commissioner for all purposes of this Charter.

§6C-3. Term of office

The Inspector General shall be appointed for a term of five (5) years. The Inspector General may be removed from office by the Mayor during his or her term only for misconduct, or malfeasance in office after being served with written charges and after a public hearing held by the Mayor or a hearing officer appointed by the Mayor, with an opportunity to be heard.

§6C-4. Duties of the Inspector General

The Office of Inspector General is authorized to engage in the following specific functions:

- A. Conduct any investigation directed by the Mayor, City Council, or at the discretion of the Inspector General.
- B. Audit, evaluate, investigate, and inspect the activities and records of any City department to include the Rochester Police Department, City Council,

any board or commission, and any person or entity doing business with the City or that receives funds from the City with regard to that entity or person's transaction with the City. The Inspector General shall not be authorized to audit, evaluate, investigate and inspect the activities and records of any other municipal corporation, public authority or agency of the State or Federal Government.

- C. Conduct potential criminal investigations and administrative investigations into allegations of wrongdoing involving individuals and agencies within the scope of its jurisdiction.
- D. Audit the economy, efficiency, and effectiveness of City operations and functions.
- E. Recommend remedial actions to be taken by City departments in response to an audit, review or investigation and monitor their implementation.
- F. Refer matters for further administrative and criminal action to appropriate law enforcement, administrative, and prosecutorial agencies.

#### §6C-5. Powers of the Inspector General

The Inspector General shall have the following powers:

- A. Shall have access, at all reasonable times, to offices of the City departments, boards and commissions.
- B. May examine all books, papers, records and documents in any such department, board or commission or any person or entity doing business with the City, or any person or entity who receives funds from the City.
- C. May require any City officer or head of a department, board or commission and any person or entity doing business with the City or that receives funds from the City with regard to that entity or person's transaction with the City, to furnish such data, information or statements as may be necessary, unless prohibited or limited by law.
- D. May take and hear proof and testimony, administer oaths, subpoena and compel the attendance of witnesses and compel the production of books, papers, records and documents.

**§6C-6. Expert services**

Within the amounts budgeted for said purpose, the Inspector General may enter into professional services agreements with Certified Public Accountants, qualified consultants, or other professional experts necessary to independently perform the functions of the office, in amounts not to exceed \$10,000 in a fiscal year with any consultant, without further approval from City Council.

**§ 6C-7. Independent authority**

The Inspector General shall investigate matters at the direction of the Mayor or City Council but shall also be authorized to exercise independent judgment in determining which matters to investigate. The Mayor, City Council or other City employees shall not obstruct the Inspector General from initiating, carrying out, or completing any audit, investigation or review.

**§ 6C-8. Public records**

Inspector General audit and investigation reports shall be public records as provided in Article 6 of the Public Officers Law. The Inspector General shall maintain the confidentiality of any public records that are made confidential by law.

**§ 6C-9. Reports of investigations and audits**

When an investigation or audit has been completed, the Inspector General is authorized to report the findings thereof to the head of any City agency that is the subject of those findings, Corporation Counsel, and to the Mayor. Agency heads shall be given the opportunity to respond in writing. The Inspector General is also authorized to report any findings that involve possible criminal activities to the appropriate law enforcement agencies. The IG is required to keep all matters confidential to the extent permitted by law.

The IG shall provide an annual report to the Mayor and City Council of its activities, and any additional reports that the IG deems necessary.

**§ 6C-10. Duties of other individuals, agencies, and entities**

- A. City employees and any other person or entity doing business with the City, have a duty to report suspected fraud, waste, and abuse to the Office of Inspector General.
- B. City departments shall not conduct their own investigations and must refer suspected fraud, waste, and abuse to the Office of Inspector General.
- C. City departments must respond in writing to Office of Inspector General reports to address findings and confirm any corrective actions taken by the department.
- D. Office of Inspector General reports and related documentation should remain confidential to the extent permitted by law.

§ 6C-11. Whistleblower Protection

The City shall not take any adverse personnel action against an employee because such employee discloses a violation of a law, rule or regulation or which constitutes an improper governmental action, as provided in Section 75-b of the Civil Service Law.

§ 6C-12. Political activities prohibited.

The Inspector General shall not directly or indirectly engage in any political activity except as otherwise authorized by this section or by law. The Inspector General may vote and enroll himself or herself as a voter as a member of a political party, or advocate on behalf of measures to improve the law, the legal system or the administration of justice. Prohibited political activity shall include:

- A. Being a member or officer of a political committee or political party, or any other group the principal purpose of which is to further the election or appointment of candidates to political office, other than voter enrollment in a political party;
- B. Participating in any political campaign for any elected office or permitting his or her name to be used in connection with any activity of a political campaign or committee, or publicly endorsing or publicly opposing a candidate for public office; or
- C. Soliciting funds for or making a contribution to a political committee or candidate, or purchasing tickets for politically sponsored events.

Section 2. The City Charter is hereby further amended to delete Section 3-13, Director of the Office of Public Integrity, in its entirety.

Section 3. The City Charter is hereby further amended in the second paragraph of Section 3-1, Mayor, to read in its entirety as follows:

There shall be in the office of the Mayor a Bureau of Communications, the head of which shall be Director of Communications; an Office of Inspector General Public Integrity, the head of which shall be the Inspector General ~~Director of the Office of Public Integrity~~; and such other operating or staff units as may be deemed necessary by the Mayor to effectively administer City affairs, programs or projects that may from time to time be required.

Section 4. The City Charter is hereby further amended in Subsection G(1) of Section 2-18, Code of Ethics, by amending the list of officials required to file financial disclosure statements to delete the job title of "Director of the Office of Public Integrity" and replace it with the title of "Inspector General."

Section 5. The City Charter is hereby further amended in the last paragraph of Attachment 1, Statement of Financial Disclosure, to read in its entirety as follows:

OPI#14

PLEASE RETURN TO:  
~~INSPECTOR GENERAL SECRETARY OF THE BOARD OF~~  
~~ETHICS OFFICE OF INSPECTOR GENERAL PUBLIC~~  
~~INTEGRITY~~  
85 ALLEN STREET, SUITE 100  
ROCHESTER, NEW YORK  
14608 FAX: 585-428-7972

Section 6. This local law shall be submitted for the approval of the electors at the general election to be held on November 2, 2021 and shall take effect immediately upon certification of its approval by the affirmative vote of a majority of the qualified electors voting on said proposition.

Strikeout indicates deleted text, new text is underlined.