

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA AMENDING SECTION 2-199 INTERNAL AUDITOR OF SUBPART A GENERAL ORDINANCES CHAPTER 2 ADMINISTRATION, ARTICLE IV DEPARTMENTS, TO ESTABLISH THE POSITION OF INSPECTOR GENERAL TO REPORT DIRECTLY TO THE CITY COMMISSION; AMENDING ARTICLE III OFFICERS AND EMPLOYEES, TO CREATE DIVISION V INSPECTOR GENERAL, SECTION 2-161 THROUGH 2-168 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission adopted Ordinance No. 05-29 on December 6, 2005 creating the position of Internal Auditor to be appointed by and serve at the pleasure of the City Commission who shall prescribe his or her duties; and

WHEREAS, a draft job description was created on October 1, 2005 for a Non-Union Exempt Internal Auditor position to report to the City Manager or designee but later revised on January 12, 2006 as a Non-Classified position reporting to the Mayor and Commissioners for overall day-to-day activities; and

WHEREAS, on June 19, 2006 the Internal Auditor position for the City of Key West, Florida was filled who held the position until August 31, 2008; and

WHEREAS, the Internal Auditor position remained vacant and was subsequently removed from the City's budget; however, the

City Charter was never amended to abolish the Internal Auditor position; and

WHEREAS, the 2025 Spring Term Monroe County Grand Jury issued its Final Report documenting investigative findings of criminal activity and official misconduct by high-ranking City officials, resulting in the issuance of a total of seven (7) indictments, charging thirteen (13) felony offenses, the majority of which were related to/in connection to their public/official employment with the City of Key West, Florida; and

WHEREAS, the Grand Jury's Final Report further provided several recommendations for preventive action by the City Commission which included creation of *".. an internal auditor position, to be filled by a licensed Certified Public Accountant ("CPA")... to conduct efficiency and performance audits of the City government and its officials with written reports submitted to the City Manager, Mayor and Commission and "..with unrestricted access to government employees, officials, records and reports where appropriate and to require all branches, departments and official of City government to produce documents, files and other records."*; and

WHEREAS, following extensive research and a review of the ordinances and practices of other municipalities throughout the State of Florida, the City Commission feels it is in the best interest of the City of Key West, Florida to amend Sec. 2-

199. *Internal Auditor.* to create the position of Inspector General to expand and clearly define the functions, authority and powers of the Inspector General position, which includes serving as the Internal Auditor of the City of Key West, Florida;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That *Section 2-199. Internal Auditor.* of *Subpart A. General Ordinances., Chapter 2. Administration., Article IV. Departments.* of the Code of Ordinances of the City of Key West, Florida is hereby amended to read as follows**:

"Sec. 2-199. ~~Internal auditor~~ Inspector General.

The position of ~~internal auditor~~ Inspector General is hereby established. The ~~internal auditor~~ Inspector General shall be appointed by, and serve at the pleasure of, the City Commission which shall prescribe his or her duties. The ~~internal auditor~~ Inspector General shall report directly to the City Commission."

**At first reading, added language is underlined; deleted language is ~~struck through~~. At second reading, added language is double-underlined and deleted language is ~~double struck through~~.

Section 2: That *Article III. Officers and Employees.* of the Code of Ordinances of the City of Key West, Florida is hereby amended to create *Division V. Inspector General., Sections 2-161-168.* and *Section 2-169-2-195. Reserved.* to read as follows**:

"Sec. 2-161. Inspector General

- (a) The position of inspector general is hereby created as an independent position to monitor and perform investigations, audits, reviews and oversight of municipal matters including city contracts, programs, projects and expenditures to identify efficiencies, and detect and prevent fraud, waste, mismanagement, misconduct and abuse of power. The inspector general shall be sufficiently independent to ensure that no external interference or influence adversely affects the independence and objectivity of the inspector general.
- (b) It is the position of the City Commission of the City of Key West, Florida that the public's confidence and trust in City operations and government must meet the highest level of ethical standards and achievement. City officials and employees are agents of the people and hold their positions for the benefit of the public. As public servants, they are expected to perform their official duties at the highest level of standards of conduct and faithfully discharge the duties of their office regardless of personal considerations and interests, recognizing that maintaining the respect of the citizens of the City it serves must be of foremost concern. In upholding the City's values, accountability and responsibility, all city officials and employees shall abide by all codes of ethical conduct and subject to the penalties provided for in such regulations.

Sec. 2-162. Qualifications.

- (a) The inspector general shall have:
- (1) A bachelor's degree from an accredited college or university with a major in accounting or with a major in business which includes five courses in accounting, and five years of experience as an internal auditor, independent auditor, information technology auditor, accountant, or any combination thereof.
- (2) A master's degree in accounting, business administration, or public administration from an accredited college or university and four years of experience as required in subsection (a) (4); or

- (3) A certified public accountant licensed pursuant to F.S. ch. 473, or a certified internal audit certificate issued by the Institute of Internal Auditors earned by examination, and four years of experience as required in subsection (a) (4).
 - (4) The experience shall at a minimum consist of at least one of the following areas:
 - a. Inspector general or chief audit executive;
 - b. Conducting audits of units of government or private business enterprises at a senior auditor level;
 - c. Managing and completing complex projects involving allegations of fraud, waste, abuse, theft or public corruption; or
 - d. Supervisory experience in an office of inspector general or other similar public agency.
- (b) The inspector general shall possess at appointment, or obtain within the first year after appointment, a certification from the Association of Inspector's General as a certified inspector general. The city commission may extend the timeframe to acquire the inspector general certification for a reasonable period of time for good cause.
- (c) A former or current elected official or employee of city government may not be appointed inspector general within five years following the end of such individual's period of service. This restriction does not prohibit reappointment of an inspector general currently holding the position of inspector general. Additionally, current employees within the office of inspector general who have served in the office for at least one year are not prohibited from serving as inspector general.
- (d) The inspector general may not hold, or have filed for, any elective office while inspector general, and no employee, contractor or consultant of the inspector general may hold, or have filed for, any elective office while an employee. The inspector general may not hold office in a political party or political committee and no employee, contractor or consultant of the office of inspector general may hold office in a political party or political committee while performing work for the inspector general.

Sec 2-163. Appointment.

- (a) The Inspector General shall be appointed by the Inspector General Selection Committee, subject to approval by the Mayor and City Commission.
- (b) Creation of the Inspector General Selection Committee (the "Committee") and appointment of Committees members shall be done by resolution of Mayor and City Commission and shall provide the following:
 - (1) The Mayor and each City Commission member shall select one individual to serve on the Committee.
 - (2) The Mayor's appointment shall serve as the Committee's Chairperson.
 - (3) The resolution shall prescribe the character of the Inspector General as an independent contractor or firm, or as a full time or part time employee. Further, the resolution shall instruct the Manager and Staff to take all action to procure or advertise the position of Inspector General and to collect bids or application for consideration.
- (c) City's Human Resources Director, shall provide staffing to the selection committee; advertise, as necessary, the acceptance of resumes for the position of inspector general; shall provide the selection committee with a list of qualified candidates; be responsible for ensuring thorough background investigations are conducted on any candidate selected for interview by the selection committee. The results of the background screening investigations shall be provided by the Human Resource Director to the selection committee prior to the interview of candidates.
- (d) The Committee shall be bound by the following timeline:
 - (1) Within sixty (60) days from the Resolution's passage, the Inspector General Selection Committee shall meet to review any applications and open any bids.
 - (2) Within seventy-five (75) days from the Resolution's passage the Inspector General Selection Committee shall complete their review of any applications or bids, conduct

all necessary due diligence, perform any interviews, and vote on the appointment of an individual or firm.

- (3) Within ninety (90) days from the passage of the Resolution, the Inspector General Selection Committee shall submit their candidate or firm to the Mayor and City Commission for approval.
- (4) Upon submission of a candidate for consideration, the Inspector General Selection Committee shall sunset.
- (5) The Mayor and City Commission may extend these timelines in their own and absolute discretion by a majority vote, in attendance at the meeting where removal is being considered.
- (6) Appointment of the Inspector General is final when it has been approved by a majority vote of the City Commission.
- (7) Should the Inspector General Selection Committee appointment fail to be approved by the City Commission, the Inspector General Selection Committee may be recalled, or the Mayor and City Commission may create and appoint a new Inspector General Selection Committee as provided above, in section 2-202.

Sec 2-164.Term and Removal

- (a) The inspector general shall be appointed for a term of two (2) years. In the event of a vacancy in the position of inspector general, the city commission shall promptly appoint a qualified member of City management as interim inspector general, until such time as a successor inspector general can be appointed in the manner described in section 2-202 above. Any successor appointment made by the selection committee as provided in section 2-202 shall be for a full two-year term.
- (b) At least 30 days prior to the expiration of each term, the city commission may, by majority vote, re-appoint the inspector general to another term. In the event the city commission fails to re-appoint the inspector general prior to the expiration of a term, the city commission shall reconvene the selection committee to appoint an

inspector general, in the manner described in section 2-202. Nothing herein shall be construed to prevent the incumbent inspector general from submitting his or her name to the selection committee as a candidate to be considered for appointment.

- (c) Contract. The city attorney shall negotiate a contract of employment with the individual selected for the inspector general position which must be approved by majority vote of the City Commission to become effective.
- (d) Removal. The inspector general may be removed upon a majority vote of the city commission in attendance at the meeting where removal is being considered.

Sec 2-165. Authority.

The inspector general is authorized to engage in the following specific functions:

- (1) Audit, investigate, inspect and evaluate the activities, records and individuals with contracts, procurements, grants, agreements and other financial arrangements undertaken by the city and any other function, activity, process or operation conducted by the city.
- (2) Audit the efficiency and effectiveness of city government operations and functions and conduct reviews of the city's performance measurement system.
- (3) Review the reliability and validity of information provided by city performance measure standards.
- (4) Receive and investigate complaints from any source and investigate those complaints the inspector general deems credible or upon their own initiative conduct investigations concerning alleged fraud, waste, abuse, mismanagement, misconduct and service deficiencies including deficiencies in the operation and maintenance of facilities. Credible complaints of this nature regarding the the inspector general shall be forwarded to the city attorney's office who shall retain

an investigator and report to the city commission as appropriate.

- (5) Engage in prevention activities, including but not limited to: the prevention of fraud, waste, abuse, review of legislation, review of rules, regulations, policies, procedures and transactions, training and education.
- (6) Refer matters to appropriate law enforcement agencies when the inspector general has reasonable grounds to believe there has been a violation of criminal law.
- (7) Conduct joint investigations and projects with other oversight or law enforcement agencies as deemed appropriate by the inspector general.
- (8) Recommend remedial actions to be taken by the city to overcome or correct operating or maintenance deficiencies and inefficiencies identified by the inspector general.
- (9) Monitor implementation of recommendations made by the inspector general and other audit agencies.
- (10) Establish policies and procedures to guide functions and processes conducted by the inspector general.
- (11) Upon becoming aware of a potential violation of a city ethics code or state ethics law, notify the members of the commission and/or city manager.
- (12) Establish, maintain and operate a fraud hotline to receive complaints of fraud, waste, abuse, mismanagement or misconduct from either anonymous or identified persons.
- (13) Unless outside counsel is otherwise authorized by the city commission, the inspector general may request the city attorney to retain outside counsel where, due to a conflict of interest as specified in Rule 4 of the Florida Bar Rules of Professional Responsibility, a legal conflict prevents representation by the city attorney's office.
- (14) Do all things necessary to carry out the functions set forth in this section.

(a) The inspector general is provided the following powers to accomplish the intent of this Code:

(1) The right to obtain full and unrestricted access to all city business-related records, information, data, reports, plans, projections, matters, contracts, memoranda, correspondence and any other materials, including electronic data of the city, appointed officials, employees, contractors, sub-contractors, other parties doing business with the city and/or receiving city funds.

(2) The authority to subpoena city employees, officers, officials, vendors, contractors or others doing business with the city and members of city boards, commissions, or committees as witnesses, administer oaths or affirmations, take testimony and compel the production of such books, papers, records and documents, including electronic data as is deemed to be relevant to any inquiry or investigation.

(3) The authority to subpoena evidence held by alleged violators or witnesses within its jurisdiction and as otherwise provided by law. For subpoenas of persons or evidence outside of its jurisdiction, the inspector general may make the application to any court of competent jurisdiction to order a witness to appear before the inspector general to provide evidence or give testimony relevant to an investigation or proceeding initiated by the inspector general.

(4) The authority to require city employees to report to the inspector general information regarding fraud, waste, abuse, mismanagement, and misconduct.

(b) Internal audit. The inspector general shall serve as the city's internal auditor and, in such capacity, shall, at a minimum, perform the following functions:

(1) Audits required by the City Code, state law, or a city contract to be performed by the internal auditor;

(2) Parking-related audits;

- (3) Any other audit requested by the city commission or city manager.
- (c) General obligation bond program. The inspector general shall review, audit, inspect, and investigate city contracts, programs, projects, procurements, and expenditures associated with the city's general obligation bond program.

Sec 2-167. Physical facilities and staff

- (a) The city manager shall provide the Inspector General with appropriately located office space and sufficient physical facilities, together with necessary office supplies, equipment and furnishings, to enable the office to perform its functions.
- (b) The inspector general shall have, subject to annual budgetary allocation and approval by the city commission, the power to appoint and remove such consultants, and/or independent contractors as deemed necessary for the efficient and effective administration of the activities of the inspector general.

Sec 2-168. Reporting Requirements

- (a) The inspector general, shall:
- (1) Report the findings of the inspector general's work to the city commission, appropriate appointed officials and to the public.
 - (2) Report criminal investigative matters to the appropriate law enforcement agencies.
 - (3) Immediately report to the city commission (if an appointed official), appropriate appointed official and department head involved whenever the inspector general becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the city or interference with inspector general operations. The applicable appointed official shall communicate any such reports to the city commission in a timely manner.

(4) No later than December 31 each year, prepare and publish a written annual report summarizing the activities of the inspector general during the immediately preceding fiscal year ended September 30. The report shall describe the accomplishments of the inspector general including a summary of each audit and investigation completed during the reporting period, a description of significant abuses and deficiencies relating to the administration of programs and operations of the city disclosed by audits, investigations, reviews or other activities during the reporting period, a description of recommendations for corrective action made by the inspector general during the reporting period with respect to significant problems, abuses, or deficiencies identified, and identification of each significant recommendation described in previous annual reports on which corrective action has not been completed during the reporting period. Copies of the report shall be provided to the city commission and made available to the public on the of City's website.

(b) Appointed officials, departments heads and city employees shall promptly notify the inspector general of possible mismanagement, misconduct, fraud, theft, bribery or other violation of law which appears to fall within the jurisdiction of the inspector general and may notify the inspector general of any other conduct which may fall within the inspector general's jurisdiction.

Sec. 2-169-2-195. *Reserved.*"

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Section 3: That all Ordinances or parts of Ordinance of the City of Key West, Florida in conflict with the provisions of this Ordinance are hereby superseded to the extent of such

conflict.

Section 4. That this Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

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Read and passed on first reading by the City Commission
at a meeting held this _____ day of _____, 2025.

Read and passed on final reading by the City Commission
at a meeting held this _____ day of _____, 2025.

Authenticated by the Presiding Officer and Clerk of
the Commission on the _____ day of _____, 2025.

Filed with the Clerk on _____, 2025.

Mayor Danise Henriquez	_____
Vice Mayor Donald "Donie" Lee	_____
Commissioner Lisette Carey	_____
Commissioner Aaron Castillo	_____
Commissioner Monica Haskell	_____
Commissioner Mary Lou Hoover	_____
Commissioner Sam Kaufman	_____

DANISE HENRIQUEZ, MAYOR

ATTEST:

KERI O'BRIEN, CLERK