

ORDINANCE NO.: 5074

AN ORDINANCE to repeal and recreate Section 22-24 of the Code of Ordinances of the City of La Crosse regarding enforcement procedures for the Human Rights Commission.

THE COMMON COUNCIL of the City of La Crosse do ordain as follows:

SECTION I: Section 22-24 is hereby repealed and created to read as follows:

22-24. - Enforcement procedure.

- (a) Complaint.
 - (1) Except as otherwise provided in this article, any complaint alleging discrimination prohibited by this article shall be in writing. Such complaints may be initiated by:
 - a. The complainant;
 - b. Any agent of the complainant.
 - c. Any member of the Commission on such member's own initiative.
 - (2) All complaints shall contain the following:
 - a. The name and address of the complainant;
 - b. The name and address of the respondent or respondents;
 - c. The characteristic on which the alleged discrimination of discriminatory practice is alleged to be based upon under section 22-22.
 - d. A statement setting forth the particulars of the alleged discrimination or discriminatory practice including relevant dates, times and places of alleged discrimination and any witnesses to the alleged discrimination or discriminatory practice.
- (b) Where filed. Complaints shall be filed with the City of La Crosse Human Rights Commission in the Office of the La Crosse City Clerk, and may be filed in person, on-line, or by mail.
- (c) When filed. Complaints alleging discrimination prohibited by this article shall be filed no later than 180 days after the complainant knew or should reasonably have known that the alleged act or acts occurred.
- (d) Notice to respondent. Upon the filing of a complaint, the City Clerk shall serve a copy thereof upon the respondent within 20 days of said filing via U.S. mail.
- (e) Amendment and withdrawal. A complaint may be amended or withdrawn at any time with and subject to the approval of the Commission or its designated agent and under such terms as the Commissioner or agent shall direct.
- (f) Investigations, hearing, determinations, appeal.
 - (1) Upon filing of the complaint, the City Clerk shall distribute a copy of the complaint to each member of the Commission. The Commission shall, within 25 business days, hold a public meeting to determine in writing whether the complaint alleges sufficient facts that if true, relief could be granted and therefore whether the complaint is actionable. This review shall include whether the Commission has jurisdiction over the complaint and whether essential elements of the requirements of section 22-24(a) are met.
 - (2) Should a determination be made that the Commission does not have jurisdiction or that the complaint fails to allege sufficient facts, that if true relief could be granted, the complainant shall be dismissed in writing. . Should the Commission then decide that the complaint is not actionable, the complainant may appeal to the Circuit Court of La Crosse County. Such appeal shall be made in writing with

- a copy served upon the Commission within 45 days of the complainant's receipt of such final determination of the Commission.
- (3) Should a determination be made that based on the complaint it is reasonable to believe discrimination in violation of this article has been or is being committed, the City Clerk shall be informed by the chair of the Commission. Upon such notice, the City Clerk shall send notice to the respondent. Upon receipt of said notice, the respondent shall have 20 business days to file and serve a written response. Such written response shall be served upon the complainant and the City Clerk.
- (4) Upon receipt of such written response, the Commission shall determine whether probable cause exists to believe discrimination in violation of this article has been or is being committed. If the Commission finds no probable cause, the complaint shall be dismissed. Should the Commission determine probable cause exists, the Commission shall do one or more of the following:
- a. Designate an outside mediator to attempt to resolve the matter short of hearing by an independent hearing examiner or
 - b. Designate an independent hearing examiner which shall have the authority to issue subpoenas, take testimony and hold contested hearings on behalf of the Commission. The hearing examiner shall issue a written report of all findings of fact and law in this matter and submit such report to the Commission within 45 days of appointment, unless the independent hearing examiner or the Commission finds good cause to take additional time and provides reason for the additional time. The independent hearing examiner shall appear at any Commission meeting as requested.
- (5) If after a contested hearing, the independent hearing examiner determines no discrimination has been or is being committed, the complaint shall be dismissed. If after a contested hearing, the independent hearing examiner determines discrimination has been or is being committed, the Commission shall determine penalties for any such violation found under this section. The Commission may do one or more of the following:
- a. Order a forfeiture against the offending party in accordance with § 22-21.
 - b. Issue a non-monetary order as will accomplish the purpose of this Article by eliminating the discrimination found. "Non-monetary order" means a directive to perform an action to eliminate discrimination other than a transfer of monetary funds between the respondent and the complainant.
- (h) Removal to Circuit Court. Upon service of the complaint on both parties, any party to the action may remove the complaint to Circuit Court at any time by following the proper procedures for filing. Upon removal to Circuit Court, the Commission shall and City take no further action on the complaint.
- (i) Judicial Enforcement of Orders. Whenever, in the judgment of the Commission, the judicial enforcement of the ordinance is necessary, the Commission shall in writing request the City Attorney to enforce the ordinance in the name of the City of La Crosse. Upon receipt of such request, the City Attorney shall have the power to seek enforcement of the ordinance in a court of competent jurisdiction.
- (j) All discrimination complaints involving the City or City of La Crosse Housing Authority shall be referred to the Equal Rights Division (ERD) of the Wisconsin Department of Workforce Development or the U.S. Equal Employment Opportunity Commission (EEOC) or the U.S. Department of Housing and Urban Development (HUD), whichever may have jurisdiction over the complaint and the Commission shall take no action, but

shall promptly refer the complaint to the ERD, EEOC or HUD for appropriate actions provided by law. The complainant and respondent shall be informed of all such referrals.

- (k) The process defined in Section 22-24 is not exclusive. The Complainant and/or Respondent may have other rights, causes of action, remedies available in other forums such as the ERD, EEOC or HUD.
- (l) A certified copy of such recommended findings, conclusions, and orders, together with a summary of the findings of fact shall be mailed to the last known addresses of the complainant and respondent. Within 30 days following the mailing of the Commission's decision, the complainant or respondent may appeal by certiorari to the Circuit Court of La Crosse County. If within 30 days following the mailing of the examiner's decision the Commission does not receive notice of appeal, the findings, conclusions and orders of the examiner shall be the findings, conclusions and orders of the full Commission.

SECTION II: Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this division shall not be affected.

SECTION III: This ordinance shall take effect and be in force effective upon passage and publication.

_____/s/_____
Timothy Kabat, Mayor

_____/s/_____
Teri Lehrke, City Clerk

Passed: 1/10/2019
Approved: 1/14/2019
Published: 1/19/2019