

# Planning Commission

December 6, 2018



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| <b>Case No:</b>          | 18AMEND1002                             |
| <b>Project Name:</b>     | Short Term Rentals                      |
| <b>Location:</b>         | Louisville Metro                        |
| <b>Applicant:</b>        | Louisville Metro Planning Commission    |
| <b>Jurisdiction:</b>     | Louisville Metro                        |
| <b>Council District:</b> | All Council Districts                   |
| <b>Case Manager:</b>     | Joseph Haberman, AICP, Planning Manager |

## REQUEST

Amend the Land Development Code (LDC) concerning the Short Term Rental regulations.

## SUMMARY

Louisville has a growing number of dwelling units being rented for short terms. Individuals in need of short term rentals are increasingly turning to the internet as a method to secure short term rental opportunities, including the ability to rent an entire home or only a room. Internet platforms include popular sites such as airbnb.com and VRBO.com.

These short term rentals are often different than other transient rental options currently permitted, such as hotels, motels, and bed and breakfast inns. Usually situated in residential areas, they serve as alternatives to more traditional lodging arrangements.

In general, short term rentals take three forms: 1) hosted home sharing, where there is a primary occupant of the residence who resides in the dwelling with guests; 2) un-hosted home sharing, where there a primary occupant of the residence who vacates the dwelling while it is rented to guests; and 3) dedicated short term rentals, where there is not a primary occupant of the dwelling and it is rented out exclusively to guests.

In addition, the frequencies of short term rentals vary: homes rented only for special occasions (i.e. the Kentucky Derby); homes rented often but not continuously; and homes rented continuously, in some cases available for rent each day all year.

For residents, short term rentals can provide extra income. For visitors, the properties can provide more authentic local experiences and/or affordable alternatives to hotels. On the other hand, if not adequately regulated, short term rentals have the potential to change the character of established residential areas and can impact the affordability and availability of rental housing.

From August 1, 2016 to date, short term rentals have been regulated by way of the Louisville Metro Code and the Louisville Metro LDC. With the exception of the City of Middletown, the cities with zoning authority have not adopted LDC regulations related to short term rentals.

### *Summary of Existing Louisville Metro Code Provisions:*

- Requires annual registration of all short term rentals, regardless of type or frequency;
- Limits hosts to renting a dwelling unit under a single contract at a time (rooms within a dwelling unit cannot be rented to multiple parties at once);
- Caps occupancy by limiting the number of guests (2 x the number of bedrooms + 4);

- Prohibits hosts from providing meals to guests;
- Requires smoke detectors and posted evacuation plans within the dwelling units;
- Prohibits outdoor signage;
- Requires an emergency contact;
- Reinforces the requirements related to the remittance of taxes; and
- Provides penalties for non-compliance with the Metro Code provisions.

*Summary of Existing Louisville Metro LDC provisions:*

- Provides a definition of short term rental that distinguishes the use from other uses;
- Identifies appropriate locations and levels of approval:
  - Special Standards – approved administratively (Planning Director)
    - Any short term rental in a residential zoning district in which the dwelling unit is the host’s primary residence (R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, or R-8A);
    - Any short term rental in a commercial/office zoning district and in most special zoning districts (OR, OR-1, OR-2, OR-3, OTF, C-N, C-R, C-1, C-2, C-3, C-M, W-1, W-2, PVD, PTD, or PRD);
  - Conditional Use Permit – approved at a public hearing (BOZA):
    - Any short term rental in a residential zoning district in which the dwelling unit is not the host’s primary residence (R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, or R-8A);
    - Any short term rental in a TNZD (Old Louisville and Limerick);
    - Any short term rental in a multi-family condominium building in a residential zoning district;
- Does not permit short-term rentals in the M-1, M-2, M-3, EZ-1, PRO, PEC, and W-3 zoning districts;
- Provides required zoning standards:
  - Limits hosts to renting a dwelling unit under a single contract at a time (rooms within a dwelling unit cannot be rented to multiple parties at once);
  - Caps occupancy by limiting the number of guests (2 x the number of bedrooms + 4);
  - Limits to single and two-family buildings unless a) the property is commercially zoned and within proximity of a bus route; park; and historic district or b) a condo;
  - Prohibits provision of food/alcoholic beverages;
  - Prohibits outdoor signage;
  - Requires parking based on the land uses of immediate vicinity;
  - Allows for the registration/conditional use permit to be revoked if the property is subject to 2+ civil/criminal complaints;
- Does not supersede lease agreements, association bylaws, or any other agreements, laws, or regulations that prohibit use of a dwelling or property as a short term rental; and
- Provides penalties for non-compliance with the LDC provisions (the same as those that apply to all violations of the LDC).

Additional information regarding the existing short term rental provisions can be found on Louisville Metro’s website: <https://louisvilleky.gov/government/planning-design/short-term-rental-information>.

## BACKGROUND

Prior to August 1, 2016, short term rentals were not addressed in the Louisville Metro LDC and the Planning Director had interpreted that the rental of a dwelling unit of less than 30 days was not permitted.

On December 3, 2015, Metro Council passed Resolution #124, 2015. The resolution requested that the Planning Commission, through its staff at Planning & Design Services, research short term rentals and recommend LDC amendments that regulate such use to Metro Council to consider. The LDC amendments were associated with Metro Code amendments approved by Metro Council. On December 17, 2015, Metro Council passed Ordinance #217, 2015. The ordinance amended Louisville Metro Code Section 115 to require short term rentals to meet certain standards and be registered annually with Louisville Metro's Department of Develop Louisville. Subsequently, the effective date of the ordinance was postponed to August 1, 2016 in order to provide time for consistent LDC amendments to be crafted and adopted (thus becoming effective at or around the same time).

At a public hearing on April 11, 2016, the Planning Commission recommended LDC amendments to regulate short term rentals of dwelling units. Following the recommendation, on June 23, 2016, Metro Council passed Ordinance #100, 2016 adopting those recommendations with some amendments. The regulations became effective on August 1, 2016. The regulations within the LDC were subsequently amended by Metro Council on August 11, 2016 and November 17, 2016 (by Ordinances #144, 2016 and #201, 2016 respectively). With the exception of the City of Middletown, the cities with zoning authority did not adopt LDC regulations related to short term rentals.

On October 11, 2018, Metro Council passed Resolution #178, 2018 (see Attachment #1). The resolution requests that the Planning Commission undertake a review of Louisville Metro Code Sections 115.515–115.521, LDC Chapter 4 regarding short term rentals, and the list of suggested changes and public comments, and propose amendments thereto.

## STAFF ANALYSIS

In anticipation of amendments, Develop Louisville solicited public comments regarding the short term rental ordinances from August 14, 2018 to September 14, 2018. Further, staff accepted additional public comments provided to the case manager after the close of the public comment period. The public comments received up until the publication date of this report are provided in Attachment #2. In general, there are comments in support and opposition to allowing short term rentals, with some members of the public requesting less regulation and other members of the public requesting additional regulation.

While there are comments in support and opposition to the allowance of short term rentals, most of the comments and other feedback received by staff focus on the impact of short term rentals on residential neighborhoods. In this report, two options are presented for the Planning Commission to consider in relation to the public comments regarding short term rentals in residential zoning districts.

The draft amendments described in this report update the LDC in the following ways:

- Adds a new definition of *Primary Residence*;
- Disallows short term rentals within dwelling units that are not the primary residences of the hosts in residential zoning districts:

- Option 1: Removes all residential zoning districts (R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, and R-8A) and TNZD;
- Option 2: Removes only single-family residential zoning districts (R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N);
- Allows short term rentals in the EZ-1 district (only applies to properties that are permitted pursuant to LDC Sections 4.3.3, 4.3.4, and 4.3.5 or are lawfully nonconforming thereto; affected areas are shown in Attachment #3);
- Modifies occupancy requirements (2 x the number of bedrooms + 2, with total occupancy not to exceed 10 persons regardless of the number of bedrooms);
- Allows outdoor signage for short term rentals in nonresidential zoning districts that otherwise allow signage; and
- Provides other necessary technical revisions to the existing wording in affected sections.

The draft amendments described in this report update the Louisville Metro Code in the following ways:

- Removes requirement for an initial registration fee (currently \$25.00);
- Makes it a violation in and of itself to advertise an unlawful short term rental;
- Modifies occupancy requirements (2 x the number of bedrooms + 2, with total occupancy not to exceed 10 persons in a dwelling unit regardless of the number of bedrooms);
- Requires that the emergency contact is located in Jefferson County and/or within 25 miles of the property (follows Planning Committee recommendation);
- Modifies the fine structure by removing discretionary ranges and allowing the zoning enforcement officer to have discretion on when to provide a warning/ courtesy notice; and
- Provides other necessary technical revisions to the existing wording in affected sections.

This item was reviewed by the Planning Committee on November 1, 2018. The Committee recommended that the item be docketed for review and consideration by the Planning Commission.

### **INTERESTED PARTY COMMENT**

Interested party comments through the publication date of this report are included in Attachment #2.

### **PROPOSED AMENDMENTS**

*The Planning Commission must make a recommendation to Metro Council and the legislative bodies of cities with zoning authority to approve, approve with modifications, or deny the LDC text amendments. This section shows specific amendments to the Louisville Metro version of the LDC. The cities with zoning authority in Louisville Metro have different versions. If any of the cities consider incorporating the amendments into its LDC, staff will assist the city in preparing specific amendments that reflect the nature of the changes recommended in this report.*

*Note: In 2016, the Planning Commission only reviewed and provided a recommendation regarding short term rentals in relation to the LDC provisions. Louisville Metro Code text amendments are also presented in this report. Metro Council requested that the Planning Commission make a recommendation or otherwise provide comments to Metro Council regarding these amendments.*

## LOUISVILLE METRO LAND DEVELOPMENT CODE

### 1.2.2 Definitions

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Primary Residence (or Principal Residence) – A primary residence is the main home of an individual. An individual has only one primary residence at a time. If an individual owns and lives in just one dwelling unit, then that property is his or her primary residence. If an individual owns or lives in more than one dwelling unit, then he or she must apply a "facts and circumstances" test to determine which property is his or her primary residence. While the most important factor is where he or she spends the most time, other factors are relevant as well. The more of these factors that are true of a home, the more likely that it is a primary residence: Factors include, but are not limited to, the address listed on an individual's U.S. Postal Service address, Voter Registration Card, federal and state tax returns, driver's license, state identification card, and/or vehicle registration.

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**Short Term Rental** - A dwelling unit that is rented, leased or otherwise assigned for a tenancy of less than 30 consecutive days duration, where no meals are served. This term does not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns or boarding and lodging house rooms.

**Short Term Rental Host** - Any person who is the owner of record of residential real property, or any person who is a lessee of residential real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for short term rental.

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*Note:*

*(Not Part of Amendment)*

*In response to varying public comments received to date concerning rentals in residential neighborhoods, staff is showing two options concerning short term rentals that are not the primary residences of the hosts in residential zoning districts. The first option would disallow such rentals in residential zoning districts and the TNZD. The second option disallows such rentals in single-family residential zoning districts, but continues to allow such short term rentals in multi-family residential zoning districts and the TNZD.*

**4.2.63 Short Term Rental of a dwelling unit in a TNZD district that is the primary residence of the host ~~that is not the primary residence of the host or the short term rental Short Term Rental of a condominium unit within a multi-family building that is the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, or R-8A district and Short Term Rental of any dwelling unit in a TNZD district~~**

A short term rental of dwelling unit that is ~~not~~ the primary residence of the host in a TNZD district or the short term rental of a condominium unit within a multi-family building that is the primary residence of the host ~~in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, or R-8A district and a short term rental of any dwelling unit in a TNZD district~~ may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

Option 1

**4.2.63 Short Term Rental of a dwelling unit that is not the primary residence of the host ~~or the short term rental of a condominium unit that is the primary residence of the host~~ in a ~~R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N,~~ R-5A, R-5B, R-6, R-7, or R-8A district, Short Term Rental of a condominium unit within a multi-family building that is the primary residence of the host and in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, or R-8A district, and Short Term Rental of any dwelling unit in a TNZD district**

A short term rental of dwelling unit that is not the primary residence of the host R-5A, R-5B, R-6, R-7, or R-8A district; ~~or the~~ a short term rental of a condominium unit within a multi-family building that is the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, or R-8A district; and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus ~~four~~ two individuals with total occupancy not to exceed 10 persons in a dwelling unit regardless of the number of bedrooms.
- D. The building in which the dwelling unit is located shall be a single-family residence, ~~or~~ duplex, ~~or a~~ condominium ~~unit~~. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. This evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board wherein all condominium owners were notified that short term rental of the subject condominium would be discussed and a majority of the board members voted in favor of permitting /allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated.

- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a one-year period, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6.

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#### 4.3.23 Short Term Rentals

In a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, or R-8A district, a short term rental of dwelling unit that is the primary residence of the host is permitted by the Planning Director with special standards set forth in this section. In a OR, OR-1, OR-2, OR-3, OTF, C-N, C-R, C-1, C-2, C-3, C-M, EZ-1, W-1, W-2, PVD, PTD, or PRD district, any short term rental is permitted by the Planning Director with special standards set forth in this section.

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant for 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus ~~four~~two individuals with total occupancy not to exceed 10 persons in a dwelling unit regardless of the number of bedrooms.
- D. The building in which the dwelling unit is located shall be a single-family residence or duplex unless the dwelling unit is located on property zoned C-R, C-N, C-1, C-2, ~~or~~ C-3, or EZ-1 and the property meets all of the following criteria: 1. The property is within 200' of a TARC route; 2. The property is within .75 miles of a public park; and 3. The property is within one mile of a National Register District or Local Preservation District. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Planning Director. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. In the event that a complaint is filed concerning the lack of adequate parking, the Planning Director may require that the host submit a parking study to Planning & Design Services. If the parking study concludes that there is inadequate parking available to the host and guests, the host shall either a) increase the amount of parking or b) discontinue the short term rental use.
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

~~I. In order to maintain a registry of short term rentals, the host of the short term rental shall submit a notice of intent to commence a short term rental to the Office of Planning & Design Services in a form prescribed by the Planning Director. This form may be an online form that does not require the host to visit the office.~~

J. I If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a one-year period, the Planning Director may revoke the approval.



## LOUISVILLE METRO CODE OF ORDINANCES

### § 115.515 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DIRECTOR.** The Director of the Louisville Metro Department of Develop Louisville.

**HOST.** Any person who is the owner of record of real property, or any person who is a lessee of real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for short term rental.

**HOSTING PLATFORM.** An internet based platform that generally allows an owner or tenant to advertise the dwelling unit through a website and provides a means for potential transient users to arrange short term rental and payment through the hosting platform.

**SHORT TERM RENTAL.** A dwelling unit that is rented, leased or otherwise assigned for a tenancy of less than 30 consecutive days duration, where no meals are served. This term does not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns or boarding and lodging house rooms.

**TRANSIENT USER.** A person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of less than 30 consecutive days duration.

### § 115.516 ANNUAL REGISTRATION REQUIRED.

No person, firm, or corporation shall own or operate a short term rental on any premises within Jefferson County unless the short term rental has been registered annually with the Louisville Metro Department of Develop Louisville.

### § 115.517 ANNUAL REGISTRATION; FEE.

- (A) Each annual registration for a short term rental shall be per the procedure prescribed by the Director, ~~and approved by the Louisville Metro Revenue Commission~~ and shall be available for paperless, online registration ~~upon the effective date of this subchapter~~. The registration form, at a minimum, shall include the following:
- (1) The name, address, phone number, and email address of the ~~h~~Host and ~~of a person an emergency contact~~ residing or located ~~in Jefferson County, Kentucky and/or~~ within 25 miles of the short term rental who shall be responsible for addressing any maintenance or safety concerns ~~and nuisance complaints requiring immediate attention. The Host shall provide the emergency contact's information to Transient Users prior to commencing their stays;~~ and
  - (2) The location of the short term rental.
- (B) A nonrefundable fee of \$25 shall accompany the annual registration form of a short term rental. The initial registration fee shall be waived.

**§ 115.518 COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS.**

Each separate short term rental shall be in compliance with any currently applicable laws and regulations of the federal, state, or local governments, as may be amended from time to time including but not limited to, laws or regulations on nondiscrimination, zoning, building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, mechanical, and other applicable laws.

**§ 115.519 REGISTRATION WITH THE LOUISVILLE METRO REVENUE COMMISSION.**  
~~**TRANSIENT OCCUPANCY TAXES.**~~

- (A) Pursuant to LMCO Chapter 121, transient room ~~Transient occupancy~~ taxes are to be collected and paid by the Host to the Louisville Metro Revenue Commission ~~Metro Government pursuant to this Code~~; and
- (B) Pursuant to LMCO Chapter 110, the host may be subject to occupational license taxes to the Metro Government. ~~Transient occupancy taxes are ultimately the responsibility of the host, but the collection and remission of all required taxes pursuant to LMCO Chapters 110 and 121 may be paid by a hosting platform on behalf of host if the short term rental is created through a hosting platform that has an agreement with the Metro Government for collection and payment of such taxes to the Metro Revenue Commission.~~
- (C) The Host shall register with the Louisville Metro Revenue Commission to ensure compliance with all applicable local taxes including the transient room tax and occupational license tax.

**§ 115.520 DUTIES OF A HOST.**

It shall be the duty of a ~~h~~Host under this subchapter to ensure that:

- (A) The short term rental meets the smoke detector requirements set forth in LMCO § 94.02 and that a clearly marked evacuation plan is posted on the premises;
- (B) There shall be no more than one contract per short term rental at a time;
- (C) At no time shall more persons reside in the short term rental than two times the number of bedrooms plus ~~four~~two individuals with total occupancy not to exceed 10 persons in a dwelling unit regardless of the number of bedrooms. The occupancy maximum shall be conspicuously posted within the short term rental; and
- (D) There is no signage on the premises of the short term rental advertising or identifying the short term rental in residential zoning districts.
- (E) The name and telephone number of the Host and any emergency contact shall be conspicuously posted within the short term rental.

**§ 115.521 ADVERTISING ON A HOSTING PLATFORM.**

Short term rentals registered in accordance with § 115.517 may be advertised for short term stays of less than 30 days on a Hosting Platform. A Host and/or property owner that advertises an un-registered short term rental on a Hosting Platform is subject to enforcement as stated in §§ 115.522 and 115.999(N)(2).

**§ ~~115.524~~ 115.522 ENFORCEMENT.**

In addition to the penalties provided in § 115.999(N), the Director is authorized to enforce the provisions of this subchapter through declaratory, injunctive and other civil actions filed in any court of competent jurisdiction.

**§ 115.999 PENALTY.**

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(N)

- (1) Any person who violates any provision of §§ 115.515 through 115.520 ~~shall receive a notice of violation as a warning for a first offense~~ will be subject to a civil penalty of \$50 as imposed by a Zoning Enforcement Officer. A second offense will be subject to a civil penalty of ~~not less than \$100 and no more than \$500~~ \$250 as imposed by ~~the Director~~ a Zoning Enforcement Officer. A third offense will be subject to a civil penalty of ~~not less than \$500 and no more than \$1,000~~ as imposed by ~~the Director~~ a Zoning Enforcement Officer. Any additional offense beyond the third offense will be subject to a civil penalty of \$750 as imposed by a Zoning Enforcement Officer. Each day that a violation continues after notice has been served shall be deemed a separate offense. Any person who receives a citation for violating §§ 115.515 through 115.520 may appeal the violation to the Code Enforcement Board.
- (2) Any person who violates any provision of §115.521 related to advertising on a Hosting Platform shall receive a notice of violation as a warning for a first offense. Any additional offense will be subject to a civil penalty of \$50 as imposed by a Zoning Enforcement Officer. Each day that a violation continues after notice has been served shall be deemed a separate offense. Any person who receives a citation for violating § 115.521 may appeal the violation to the Code Enforcement Board.
- ~~(2)~~(3) In addition to the penalties provided herein, the Director is authorized to pursue remedial civil actions for violations of §§ 115.515 through 115.520 by civil complaint or petition for injunctive relief, declaration of rights or other appropriate proceedings filed in the Jefferson County, Kentucky Circuit Court.