

**100.411 Hearing before planning commission - Waiver of rights to hearing --
Determination of existence of violation -- Criminal order.**

- (1) When a hearing before a planning commission has been requested, the planning commission, through its clerical and administrative staff, shall schedule a hearing. The hearing shall be conducted within thirty (30) days of the date of the request, unless the person who requested the hearing requests or agrees to a continuance not to exceed thirty (30) days. All continuances must receive the approval of the planning commission. Not less than seven (7) days before the date set for the hearing, the planning commission shall notify the person who requested the hearing of the date, time, and place of the hearing. The notice may be given by certified mail, return receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice. Any person requesting a hearing before the planning commission who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. In this event, the planning commission shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.
- (2) Each case before a planning commission shall be presented by an attorney who shall be counsel to the commission.
- (3) All testimony shall be under oath and shall be recorded. The planning commission shall take testimony from the land use enforcement officer, the alleged offender, and any witnesses to the alleged violation offered by the land use enforcement officer or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.
- (4) After the hearing, the planning commission shall determine, based on the evidence presented, whether a violation was committed. When the commission determines that no violation was committed, an order dismissing the citation shall be entered. When the commission determines that a violation has been committed, the commission shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to the maximum authorized by the ordinance, or may order the offender to remedy a continuing violation within a specified time to avoid the imposition of a fine, or both, as authorized by the ordinance.
- (5) Every final order of a planning commission shall be reduced to writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order of the planning commission is issued, the order shall be delivered to that person by certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the order.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 10, sec. 6, effective July 15, 1998.