

65.8828 Hearing -- Notice -- Failure to appear -- Procedure -- Final order.

- (1) When a hearing before the code enforcement board is requested, the code enforcement board, through its clerical and administrative staff, shall schedule a hearing. Not less than seven (7) days before the date set for the hearing, the code enforcement board 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 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 board shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.
- (2) Each case that is the subject of a hearing may be presented by an attorney selected by the local government or by a member of the administrative staff of the local government. An attorney may either be counsel to the code enforcement board or may represent the local government by presenting cases at the hearing, but in no case shall an attorney serve in both capacities.
- (3) All testimony shall be under oath and shall be recorded. The code enforcement board or assigned hearing officer shall take testimony from the code enforcement officer, the alleged offender, and any witnesses to the alleged violation offered by the code 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) If a code enforcement board conducts the hearing, or upon the receipt of recommendations of a hearing officer pursuant to this subsection, then the code enforcement board shall determine, based on the evidence presented, whether a violation was committed. If a hearing officer conducts the hearing, the hearing officer shall make written findings of fact, conclusions of law, and a recommended order for consideration by the board. When the board determines that no violation was committed, an order dismissing the citation shall be entered. When the board determines that a violation has been committed, the board 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 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 ordinance.
- (5) Every final order of a code enforcement board shall be reduced to writing, which shall include the findings and conclusions of the board, and the date the order was issued. 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 board 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: June 8, 2011

History: Amended 2011 Ky. Acts ch. 95, sec. 3, effective June 8, 2011. -- Amended 1998 Ky. Acts ch. 364, sec. 4, effective July 15, 1998. -- Created 1996 Ky. Acts ch. 177, sec. 9, effective July 15, 1996.