

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

- (1) When a hearing 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 regular first-class mail; 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. The code enforcement board may also elect to provide notice of hearing to any lienholders with an interest in the subject premises. 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 citation, as issued, shall be deemed a final order determining that the violation was committed and imposing the civil fine set forth in the citation, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court. Notice of the final order shall be provided to the cited violator in the manner set forth in subsection (5) of this section.
- (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 KRS 65.8829(6), then the code enforcement board shall determine, based on the evidence presented, whether a violation was committed. 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 may issue an order upholding the citation and may order the offender to do either or both of the following:
 - (a) Pay a civil fine in an amount up to the maximum authorized by ordinance; or
 - (b) Remedy a continuing violation within a specified time to avoid the imposition of a fine as authorized by ordinance.
- (5) Every final order following a hearing 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 regular first-class mail; 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.

- (6) If the code enforcement board is reviewing a final order entered by a hearing officer on appeal as authorized by KRS 65.8829(7), the code enforcement board shall review the record created before the hearing officer and determine whether there is substantial evidence on the record to support a finding by the hearing officer that a violation was committed. If the code enforcement board determines that there is not substantial evidence on the record, it shall issue an order dismissing the citation. If the code enforcement board determines that there is substantial evidence on the record that a violation was committed, it shall issue a final order upholding the order entered by the hearing officer. The provisions of subsections (1) and (4) of this section shall apply to any appeal hearing conducted pursuant to this subsection.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 86, sec. 8, effective July 15, 2016. -- 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.