

**CITY OF SHIVELY**  
**ORDINANCE NO. 7, SERIES 2024**  
**CERTIFIED SUMMARY**  
**AN ORDINANCE PERTAINING TO THE REGULATION AND OPERATION OF**  
**MOBILE FOOD UNITS IN THE CITY OF SHIVELY**

I hereby certify that the foregoing ordinance sets forth the application requirements for mobile food unit vendors to obtain a City of Shively business license and permit to operate a mobile food unit within the City of Shively. In addition, the foregoing ordinance sets forth the general regulations and restrictions for operation of a mobile food unit within the city including compliance with local, state and federal law, hours of operation, safe and sanitary operations, lighting and accessibility. The foregoing ordinance further provides for causes for denial, revocation and suspension of permits and/or licenses, due process safeguards and penalty enforcement authority by the City of Shively Code Enforcement.

The complete text of said ordinance may be read at the office of the Shively City Clerk, Shively City Hall, 3920 Dixie Highway, Shively, Kentucky 40216.



---

Finn Cato  
CATO LAW OFFICE PLLC  
2950 Breckenridge Lane, Suite No. 3  
Louisville, KY 40220  
Shively City Attorney

**CITY OF SHIVELY  
ORDINANCE NO. 7, SERIES 2024**

**AN ORDINANCE PERTAINING TO THE REGULATION AND OPERATION  
OF MOBILE FOOD UNITS IN THE CITY OF SHIVELY**

**WHEREAS** the City of Shively has determined that it is necessary to regulate the operation of mobile food units within the city, and

**WHEREAS** it is the policy of the City of Shively to protect and promote the health, safety and welfare of the people of Shively by regulating the operation of mobile food units in the city to provide patrons and customers with a level of cleanliness, quality and safety, and

**WHEREAS** it is also the intent of these regulations to establish reasonable guidelines and restrictions for mobile food units and vendors and to encourage the safe and convenient use of the city's right of ways and other properties, including parking lots, parks and office buildings, now therefore:

**BE IT ORDAINED BY THE CITY OF SHIVELY:**

**SECTION 1.** In City of Shively codified ordinances, Title IX Business Regulations, a new Chapter 127 entitled Mobile Food Units is hereby created and adopted as follows:

**§127.01 DEFINITIONS.**

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

**"MOBILE FOOD UNIT."** Food establishment which is on wheels, either pulled or self-propelled, and which sells food and/or beverages and shall also include non-self-propelled units with or without wheels, or otherwise mobile, that are lightweight enough in design and intended to be moved by one person and that are used to prepare or sell consumable foods.

**"MOBILE FOOD UNIT VENDOR."** A merchant who conducts business from a mobile food unit.

**"MOBILE FOOD UNIT VENDOR PERMIT."** A permit which authorizes a person to conduct business from a mobile food unit. This license is in addition to the city's business license which is also required.

**§127.02 LICENSING AND PERMIT REQUIRED.**

(A) The licensing and permitting of a mobile food unit vendor shall be on a per unit basis, with each different mobile food unit vendor acquiring a separate business license and permit for each mobile food unit.

- (B) Mobile food unit vendors shall be required to have a city business license, and no permit or license shall be transferable.
- (C) All applications for city business licenses and mobile food unit permits shall be accompanied by the required certificate of general liability insurance and proof of Health Department approval and required fee established by the City of Shively.
- (D) Vendors shall submit the business license application and fee to the City of Shively, Shively City Hall, 3920 Dixie Highway, Shively, Kentucky 40216. Licenses shall be valid for twelve (12) months unless otherwise invalidated, revoked, or terminated prior to the end of the twelve (12) month term. Mobile food unit vendors must reapply and pay the fee each year.
- (E) The mobile food unit vendor applicant shall notify Shively City Hall when their location changes and provide any additional information requested by the city for the new location.
- (F) It shall be unlawful for any person to intentionally provide false information or to intentionally omit requested information on an application for any license pertaining to mobile food unit vendors.
- (G) As a condition of issuance of any license, the mobile food unit vendor agrees to indemnify, hold harmless and defend the city and its officials, officers, employees, representatives, and agents against liability and/or loss arising from activities connected with and/or undertaken pursuant to the license. The city is not liable for any business loss, property loss, or other damage that may result from use of the license or suspension or revocation of the license, or the discontinuances of the practice of permitting such activity, and no such vendor shall maintain any claim or action against the City of Shively and/or its officials, officers, employees, or agents on account of any suspension, revocation or discontinuance. In no way shall a mobile food unit vendor be considered an employee of the City of Shively.
- (H) If a mobile food unit vendor will be operating on private property, then said vendor shall provide a written authorization from the property owner or the business owner. Said authorization shall be presented to the City of Shively at Shively City Hall at least ten (10) days before use.
- (I) Permits and licenses may be revoked immediately upon non-payment of any business and/or occupational license fee or returns required by City of Shively ordinances.

**§127.03 GENERAL REGULATIONS OF MOBILE FOOD UNIT VENDORS AND MOBILE FOOD UNITS.**

All mobile food unit vendors must comply with the following:

- (A) Mobile food unit vendors shall be permitted to operate between the hours of 7:00 a.m. and 10:00 p.m. No mobile food unit may be at any one (1) location for more than (5) consecutive days.
- (B) The requirements of all applicable city ordinances and regulations, state and federal law, including zoning, business and occupational tax shall apply to said operations.
- (C) The vendors shall at all times operate in a manner that ensures the safety of patrons, pedestrians and the public.
- (D) Mobile food units are permitted on private property only with written permission from the property owner which will be displayed with the business license, mobile food vending permit and Jefferson County Health Department permit.
- (E) The vendors shall provide, in a prominent location, trash and recycling container(s) sufficient in size to collect all waste and recyclables generated by customers and staff of the vendor. All trash and debris related to the operation shall be collected by the vendor throughout the duration of their vending and deposited in their own trash or recycling container(s) and removed from the site by the vendor. Such waste shall not be placed in public trash receptacles. The vendor shall be responsible for any litter or debris located within a ten foot radius of their unit, including sidewalks in the immediate vicinity.
- (F) The vendors shall only use lighting which is permanently or semi-permanently affixed to their unit and which does not cause any glare that could be considered a public hazard, nuisance or distraction to vehicular movement, neighboring businesses or residences. No flashing or strobe lighting shall be permitted.
- (G) The vendors shall not use any electrical outlets located within the public right of way or on public property, unless specifically authorized by the City of Shively or if required, the utility company. A vendor shall not create any tripping or hazard related to its use of electricity.
- (H) The vendor shall not block access to or use of any public utility pole or set up any chairs or tables on the public right-of-way.
- (I) The vendor shall not in any manner damage public property of the public right-of-way. The vendors shall be solely responsible for any such damage.
- (J) The vendor shall not locate or operate within an area closed or not accessible due to an emergency.
- (K) Charitable/non-profit organizations may operate mobile food units without the necessity of a mobile food unit permit.

(L) Every mobile food unit vendor shall ensure that the interior, including the windows, shall be maintained in a clean and safe condition, free of grease, dirt, debris or other trash.

(M) The exterior of the unit and surrounding area shall also be maintained in a clean, undamaged condition and present a favorable appearance including, but not limited to, the body of the vehicle, the paint, all glass, hubcaps (if installed), head and taillights and grill and bumper. Additionally, the exterior of the unit and surrounding area shall be free of grease, dirt, debris and any and all other trash.

**§ 127.04 DENIAL, REVOCATION, SUSPENSION OF PERMIT AND/OR BUSINESS LICENSE.**

(A) An application or approved permit and/or business license may be denied, revoked, suspended, or not renewed for any of the following reasons:

- (1) The applicant or permittee and/or licensee or any of its principals fails to satisfy any qualification or requirement imposed by this chapter, or other local, state or federal laws or regulations that pertain to the particular license; or
- (2) The applicant or permittee and/or licensee or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license, permit or work card when such applicant or principal knew or reasonably should have known that one was required; or
- (3) The applicant or permittee and/or licensee or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, permit or work card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of the applicant or principal to conduct such a business; or
- (4) The applicant or permittee and/or licensee or any of its principals has been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business; or
- (5) The applicant or permittee and/or licensee or any of its principals has been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten (10) years; or
- (6) The mobile food unit upon which the business is proposed to be conducted does not satisfy all local, state or federal laws or regulations which relate to the activity that is to be licensed and permitted; or
- (7) The applicant or permittee and/or licensee or any of its principals is in default on any payments owed to the city; or

- (8) The application contains material omissions or false, fraudulent, or deceptive statements; or
  - (9) The mobile food unit is operated in such a manner as constituting a public nuisance pursuant to this code or state statutes; or
  - (10) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this chapter pertaining to food, fire prevention, public health or safety.
  - (11) The permittee and/or licensee or his agents or employees interfere with an inspection of the food establishment by a Health Department; or
  - (12) There are repeated or serious violations of the applicable portions of this section; or
  - (13) There are repeated or serious violations of federal or state food laws or laws regulating food establishments; or
  - (14) The Jefferson County Health Department denies, revokes or suspends the license of the mobile food unit or mobile food vendor; or
  - (15) There is a violation of any section of this chapter; or
  - (16) The mobile food vehicle fails to have the required registration and proof of insurance.
- (B) The provisions of this section are not exclusive. This section shall not preclude the enforcement of any other provisions of this chapter or state and federal laws and regulations. The Jefferson County Health Department may impose additional requirements to protect against health hazards related to the operation of a mobile food unit.
- (C) Once a permit and/or license have been issued it may be revoked, suspended, modified, or not renewed by the city for failure to comply with the provisions of this section or any other rules and regulations including but not limited to failure to pay any outstanding fines or penalties.
- (D) No permit and/or license shall be revoked, suspended, modified, or not renewed without a hearing before the Shively City Council, prior to which hearing the council shall give reasonable notice of the time and place of the hearing and the specific grounds of the proposed action. The decision resulting therefrom shall be final and subject only to judicial review.
- (E) In the event that it's necessary to file a civil action to enforce this chapter or for collection of undue fines and penalties, the violator shall be responsible for paying reasonable attorney fees for enforcement of this chapter.

**§ 127.05 APPEAL TO CITY COUNCIL UPON DENIAL, REVOCATION OR SUSPENSION.**

Upon any denial, revocation or suspension of a mobile food unit permit and/or business license, the applicant or permittee and/or licensee may appeal the denial to the Shively City Council by filing a written statement of appeal with the Shively City Clerk within ten (10) days following the denial, revocation or suspension, and a hearing shall be held thereon by the Shively City Council at a regular or special meeting of the council. The applicant or permittee, during the appeal, may be represented by counsel.

- (A) Prior to revocation, written notice shall be given to the applicant or permittee and/or licensee or person in charge. The notice shall set forth:
  - (1) The grounds upon which the city will seek denial, revocation or suspension of the applicant or permittee and/or licensee;
  - (2) The specific violations of this article or of federal or state law upon which the city will rely in seeking denial, revocation or suspension of the applicant or permittee and/or licensee;
  - (3) That a hearing will be held before the Shively City Council;
  - (4) The date, time and place of the hearing; and
  - (5) That the applicant or permittee and/or licensee may appear in person and/or be represented by counsel and may present testimony.
- (B) The hearing shall be held in accordance with this section. If the applicant or permittee and/or licensee holder fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that an act or acts have been committed or omitted that constitutes grounds for denial, revocation or suspension of a permit and/or license.
- (C) After completion of the hearing, the Shively City Council shall make written findings as to whether or not grounds exist for denial, revocation or suspension of the applicant or permittee and/or licensee. If the Shively City Council finds that grounds do exist for denial, revocation or suspension, it shall deny, revoke or suspend the permit and/or license temporarily for up to one hundred eighty (180) days or permanently.
- (D) A copy of the written findings shall be sent by certified mail, return receipt requested, to the applicant or permittee and/or licensee at the address of the permittee contained in the application. The city is entitled to rely upon the accuracy of the address submitted in the application.
- (E) If the Shively City Council revokes the permit and/or license, written notice of the revocation shall be served on the applicant or permittee and/or licensee or the person in charge with a copy of the findings.

- (F) Upon service of written notice that the permit and/or license have been revoked as provided herein, all food operations shall cease immediately. In the event that the permittee and/or licensee fails to cease operations, the mobile food vending unit may be impounded.
- (G) Whenever a permit and/or license are revoked, the Jefferson County Health Department shall be notified.
- (H) In the event a permit and/or license are revoked, the city shall not be liable to the permittee and/or licensee for any refund of any part of the permit and/or license fee. Reinstatement of a permittee and/or licensee that has been revoked shall require application and payment of a permit and/or license fee as if it were an initial application. No new permit and/or license application shall be considered for a mobile food unit where the permit and/or license have been revoked until the expiration of the revocation period.

**§ 127.99 PENALTY.**

- (A) Violation of this chapter shall constitute a civil offense and shall be enforced pursuant to the provisions of Chapter 41.
- (B) The civil penalty for violating this subchapter shall be not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). Each day's violation shall constitute a separate offense. This chapter shall be subject to enforcement by the Code Enforcement Board of the city.
- (C) If the vendor of a mobile food unit does not move after five (5) days and the unit is on public property, the city will give a towing notice to the vendor by posting it on the mobile food unit. If the mobile food unit is not moved within twenty-four (24) hours from the time of the notice, the city will have the unit towed and the vendor will be required to pay all towing and storage fees before the mobile food unit is returned.
- (D) For all other violations, the Code Enforcement Officer shall issue a notice of violation along with a towing notice. If said violation is not timely corrected, the city shall have the mobile food unit towed and the vendor will be required to pay all towing and storage fees before the mobile food unit is returned.
- (E) The penalties and fines imposed for this chapter shall be incorporated into Chapter 41, § 41.12 of the Shively codified ordinances and shall be enforced pursuant to Chapter 41 of the Shively codified ordinances.

**SECTION 2. Severability.** If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect the other provisions that can be given effect without the invalid provision or application.



**SECTION 3.** This ordinance shall take effect upon its adoption by the Shively City Council and publication as required by law.

First reading: August 5, 2024.

Second reading: August 19, 2024.

Passed and approved: August 19, 2024.

**Introduced by: Ms. Wakaba**

*Maria D. Johnson*

Attest: *Mitzi R. Kasitz*  
Mitzi R. Kasitz, City Clerk

Maria Johnson, Mayor

Council	Yea	Nay
Ms. Bizzle	√	—
Ms. Burton-McBroom	√	—
Mr. Gibson	√	—
Ms. Thompson	√	—
Mr. Vincent	√	—
Ms. Wakaba	√	—