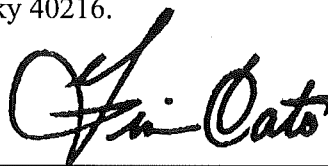


**CITY OF SHIVELY
CERTIFIED SUMMARY
ORDINANCE NO. 9, SERIES 2025**

**AN ORDINANCE RELATED TO PRIVATE TOW OPERATORS OPERATING WITHIN THE
CITY OF SHIVELY**

I hereby certify that the foregoing amended ordinance provides for the regulation of private tow operators operating in the City of Shively. In particular, the ordinance sets forth the licensing requirements, fee limits, signage requirements, owner authorization for towing, notification requirements to police, KYTC and registered owner, storage requirements, prohibition of rebates to lot owners, prohibition on fees to owner for ordinance violation, exemptions from towing for emergency vehicles and penalties.

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.

A handwritten signature in black ink, appearing to read "Finn Cato", is written over a horizontal line.

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

CITY OF SHIVELY
ORDINANCE NO. 9, SERIES 2025
AN ORDINANCE RELATED TO PRIVATE TOW OPERATORS OPERATING
WITHIN THE CITY OF SHIVELY

WHEREAS private parking lot owners within the City of Shively are entitled to ensure their premises are used only by those who are authorized to do so, and in accordance with any applicable restrictions for use of the property, and

WHEREAS while vehicles that may be parked in private parking lots without permission to do so are subject to removal, vehicle owners are entitled to clear notice of the rules and regulations that apply both to the parking lot and to removal of improperly parked vehicles therefrom, 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 128 entitled Private Tow Operators is hereby created and adopted as follows:

§128.01 DEFINITIONS.

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

- (A) **DEPARTMENT.** The Shively Police Department
- (B) **MOTOR VEHICLE.** Every device in, on, or by which any person or property is or may be transported or drawn on any street, except devices moved by human power or used exclusively on stationary rails or tracks.
- (C) **STANDARD VEHICLE.** A motor vehicle with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, which is capable of transporting one or more persons.
- (D) **MEDIUM DUTY VEHICLE.** A motor vehicle with a GVWR of 10,001 pounds or more, which is capable of transporting one or more persons. This shall include the tractor portion of a tractor trailer when no trailer is attached.
- (E) **TRACTOR TRAILER VEHICLE.** A combination of a tractor with a semi-trailer attached to the tractor.
- (F) **PRIVATE TOW OPERATOR.** Any person or entity engaged in any business of privately impounding vehicles, including but not limited to any corporation, partnership, LLC, and sole proprietorship.
- (G) **PRIVATE PROPERTY IMPOUND.** The act of towing and/or removing and/or immobilizing a motor vehicle parked on or in a private parking lot without the consent of the vehicle owner and at the lawful direction of a person having control or possession of the private parking lot upon or in which the motor vehicle was located.
- (H) **PRIVATE PARKING LOT.** A parking lot wherein vehicles are parked or stored for hire, or a parking lot provided by a business wherein customers are allowed to park. Private parking lot shall include a parking area or lot associated with a building used for residential purposes.

(I) **STORAGE YARD.** Any property used by a private tow operator upon which vehicles that have been privately impounded from a private parking lot are stored.

(J) **IMMOBILIZE.** The act of rendering a vehicle incapable of moving by any means including but not limited to attaching a device to the wheels or physically blocking the vehicle to prevent its movement.

(K) **TOW or REMOVE.** The act of attaching, lifting, pulling, or dragging any vehicle behind the wrecker or tow truck which is doing such attaching, lifting, pulling, or dragging, or positioning a wrecker or tow truck or other object to tow, remove, or otherwise impede or restrict the free movement of a vehicle. Said towed vehicle can be self-supporting, carried on a dolly-type platform, or be supported on any other item necessary to facilitate such towing. This subchapter does not necessarily require the removal of a vehicle from the private parking lot to be considered "towed" or "removed."

§128.02 LICENSURE REQUIREMENTS

(1) No private tow operator shall privately impound any motor vehicle or offer to provide such services unless the private tow operator possesses a valid license issued by Louisville Metro Department of Codes and Regulations, and a valid business license issued by the City of Shively.

(2) Liability. The private tow operator holding the license shall ultimately be responsible for all actions of the operator and all agents and employees thereof related to the towing or removal of motor vehicles.

(a) Any lapse in liability insurance coverage shall be grounds for the towing companies to be suspended from towing operations within the City of Shively.

(b) The name of current liability insurance carrier and policy number and any information regarding change in coverage during a license term must be provided to Shively City Hall upon renewal of the Shively business license along with the towing license issued by Metro Codes and Regulations. Any change of coverage must be provided seven days prior to the effective date of such new coverage; and

(c) All vehicles used in the operation of a licensed private tow operator are to be properly identified, and such identification shall be visible on the outside of the vehicle at all times. The vehicle shall bear the name and license number of the licensed private tow operator. All such identification shall be in letters not smaller than three inches high and must be kept legible at all times.

(d) A fee schedule which states the fee that is charged for private parking lot towing services, the fee that is charged for the storage of a vehicle, and any other charges which may be incidental to a private parking lot impoundment, which fees may not exceed any fees prescribed by the fee limits section.

(e) A list of all private property from which the tow companies are authorized to tow vehicles in the City of Shively, such list to be kept current and up to date and provided to the Shively Police Department. The tow companies will provide an updated list to the police department within ten days of any changes.

§128.03 REMOVAL OF VEHICLES FROM PRIVATE PARKING LOTS OR FROM ROADWAY BY REQUEST OF THE SHIVELY POLICE BY PRIVATE TOW OPERATORS; FEE LIMITS.

(A) Where a private tow operator lawfully tows or removes a motor vehicle:

- (1) Parked in a private parking lot in a manner inconsistent with posted instructions; and
- (2) Pursuant to a contract between the owner of the private parking lot and the tow operator for the removal of any such improperly parked motor vehicles; and
- (3) With the express approval required under §128.03 of this subchapter, the private tow operator may collect the following charges from the owner or lienholder of the motor vehicle, payable before the vehicle is released:

(a) Charges for a standard vehicle: up to but not more than \$138 for removal and the first 24 hours of storage, and up to but not more than \$25 per calendar day for storage thereafter. In addition to the towing charges, private tow operators may charge an additional fee up to \$27 per vehicle for a vehicle transported by a dolly type platform. Dolly fees shall not be allowed if a dolly is not needed to tow the vehicle.

(b) Charges for a medium duty vehicle: up to but not more than \$280 for removal and the first 24 hours of storage, and up to but not more than \$50 per calendar day for storage thereafter.

(c) Charges for a tractor trailer vehicle: up to but not more than \$500 for removal and the first 24 hours of storage, and up to but not more than \$100 per calendar day for storage thereafter.

(d) A private tow operator may not charge a calendar day for storage for days that the private tow operator or the storage facility to which the private tow operator has taken the motor vehicle is not open for the motor vehicle to be released.

(B) A private tow operator may not charge any fees beyond those set forth in subsection (A) of this section to release a motor vehicle properly impounded from a private parking lot or roadway.

(C) (1) If the private impound tow truck operator has lawfully fully hooked up and physically raised the vehicle to normal transportation height in accordance with the requirements and provisions of this ordinance, but has not yet towed or removed the motor vehicle from the private parking lot before the vehicle operator returns to the vehicle, then the private tow operator may charge one-half of the fee authorized by subsection (A)(3) of this section to release the motor vehicle.

(2) Private tow operators shall not hook up occupied motor vehicles. Any occupied motor vehicle that has been hooked up shall be immediately lowered and released. If the motor vehicle was improperly parked and the private tow operator was lawfully authorized to remove the motor vehicle pursuant to this ordinance, then the private tow operator shall be entitled to collect one-half of the fee authorized by subsection (A)(3) of this section.

(D) A private tow operator shall not move any motor vehicle to any intermediate place of storage, or to any location other than to the registered secure storage yard of a private impound tow truck service, unless specifically requested by the owner or custodian of said vehicle.

§128.04 SIGNS ON PARKING LOTS REQUIRED BEFORE VEHICLES MAY BE TOWED.

Owners or operators of private parking lots, with marked parking spaces, who have a contract with a tow operator as described in §128.02 shall not tow or cause to be towed from such private parking lot any vehicle unless such owner or operator has conspicuously posted and maintained at such private parking lot signs near the entrance and exit, in clear view by a driver seated in a vehicle and free from interference from natural or man-made objects. Signs must contain the following information:

- (A) That the parking lot is privately owned;
- (B) That unauthorized vehicles are subject to tow;
- (C) The hours vehicles are prohibited from parking and subject to tow;
- (D) Name, physical address, and telephone number of the tow operator; and
- (E) Tow and storage fees of the tow operator.

§128.05 PARKING LOT OWNER'S AUTHORIZATION FOR TOWING REQUIRED.

(A) No private tow operator shall remove a vehicle from a private parking lot unless the owner of the private parking lot, or said owner's authorized agent, signs a contemporaneous specific written authorization for such removal. The written authorization shall include the following:

- (1) The make and model of the vehicle to be towed;
- (2) The license number and state of issuance of the license plate of the vehicle to be towed;
- (3) The location of the private parking lot from which the vehicle is to be towed;
- (4) The signature and printed name of the person authorizing the towing;
- (5) A written statement indicating the date and time of the authorization, that the person authorizing the tow is the owner of the private parking lot, or his or her authorized agent, and that said owner or authorized agent is not the employee of any tow operator; and
- (6) A written statement indicating why the motor vehicle was parked in a manner inconsistent with posted instructions and subject to tow.

(B) Private tow operators shall also comply with reporting and notifying requirements contained in § 128.06.

§128.06 NOTIFICATION TO POLICE, KENTUCKY TRANSPORTATION CABINET AND REGISTERED OWNER REQUIRED.

A) Prior to towing any vehicle from a private parking lot, a private tow operator shall contact the Shively Police Department via telephone at (502) 448-6181 and provide the information as set forth in subsections (A)(1) through (A)(5), below. Shively Police Department will advise the private tow operator to either proceed with the tow or to leave the vehicle for the Shively Police Department to investigate. This notification shall include:

- (1) The make, model, color, and vehicle identification number of the vehicle to be towed;
- (2) The license number and state of issuance of the license plate;
- (3) The location where the tow is to occur;
- (4) The location name, physical address, and telephone number of the private tow company storage yard where the towed vehicle will be taken; and
- (5) The name, physical address, and telephone number of the private tow operator.

(B) Within one business day of the towing of any vehicle by a private tow operator from a private parking lot, the private tow operator shall notify the Kentucky Transportation Cabinet as provided in KRS 281.928, and, in addition to any information required by that statute, shall provide similar information as set out in subsections (A)(1) through (A)(5), above, except, in subsections (A)(3) and (A)(4), the private tow operator shall set forth the date, time, and location from where the vehicle was towed, and the location of the private tow company storage yard where the vehicle was taken.

(C) Upon receipt of the name and address of the registered owner and any lienholder of the motor vehicle from the Transportation Cabinet, the private tow operator shall notify the registered owner and any lienholder, by certified mail, that the motor vehicle has been towed or removed, providing all information set forth in subsection (B), and any additional information needed for the registered owner or lienholder or authorized designee thereof to reclaim the motor vehicle.

(D) Private tow operators shall be responsible for all notifications required by subsections (A) through (C) of this section, and any additional notifications required by KRS 281.928 and KRS 376.275, and all costs associated therewith.

(E) It shall be unlawful for a private tow service operator, owner or employee to provide false information to any person or entity designated to receive information under subsections (A) through (D) of this section.

§128.07 STORAGE YARD REQUIREMENTS.

(A) Any private tow operator that removes a motor vehicle as authorized by this ordinance shall ensure that the storage yard to which the motor vehicle is towed has either:

- (1) An attendant who is on site 24 hours per day, seven days per week, to return motor vehicles to the owner, operator, driver, lienholder or authorized designee thereof, upon the payment of towing and storage charges, or

(2) A conspicuously located and well lighted sign at the storage yard that is clearly visible and readable from the entrance of the storage yard, which gives the telephone number where the owner, manager, or attendant of the storage yard may be reached at any time 24 hours per day, seven days per week, so that a towed motor vehicle may be reclaimed in a minimum amount of time, not to exceed two hours.

(B) Any private tow operator that removes a vehicle as authorized by this subchapter shall insure that the storage yard to which the motor vehicle is towed shall release a towed vehicle to the owner, operator, driver, lienholder, or authorized designee thereof, upon the presentation of commercially reasonable tender sufficient to cover the costs of towing and storage authorized by this subchapter. Commercially reasonable tender shall include, without limitation, cash, and credit cards, debit cards, money orders, checks from an insurer or its agent, and checks drawn by banks or other financial institutions. If the vehicle was impounded on the authority of a Shively Police Officer, then the Shively Police Department will provide the release documentation to take to the tow companies for release of the vehicle.

(C) A private tow operator may not charge fees permitted for storage under § 128.03 (fee limits) if the storage yard is not able to timely release a motor vehicle as provided under this section.

(D) The owner or operator of a storage yard to which the motor vehicle has been towed or removed shall not, upon request by any owner or custodian of a currently licensed vehicle, deny or prevent access to said vehicle for the purpose of removing personal items authorized to be recovered under state law, whether or not the owner or custodian is then able to reclaim the vehicle.

(E) Personal items consist of prescription medication, personal medical supplies, educational materials, documents and electronic devices containing personal or business information, and firearms/ammunition (with certain restrictions). The owner can also retrieve cargo in the possession of individuals engaged in interstate commerce or by small package carriers. Additionally, clothing, child restraint systems, checks, checkbooks, debit/credit cards, money orders, stocks, and bonds are also recoverable.

§128.08 REBATES TO LOT OWNERS PROHIBITED.

It shall be unlawful for a private tow operator to pay or rebate money or solicit or offer the payment or rebate of money, or other valuable consideration to private parking lot owners for the privilege of towing or removing vehicles.

§128.09 TOWS VIOLATING ORDINANCE; NO FEES ALLOWED.

When an owner of a private parking lot, his or her agent, or a tow operator causes a vehicle to be towed in violation of this ordinance, there shall be no charge to the owner or other person in charge of the vehicle for the cost of the tow and storage. Such persons who violate this ordinance may be liable to the vehicle owner for any amount actually paid for the tow, transportation, and storage of the vehicle, as well as for any damage to the vehicle resulting therefrom.

§128.10 EXEMPTIONS FROM TOWING FOR EMERGENCY VEHICLES.

No person may, under the authority of this subchapter, cause the removal of any ambulance, police vehicle, fire vehicle, civil defense emergency vehicle, or emergency ambulance service vehicle while such vehicle is on official business.

§128.11 ENFORCEMENT; PENALTIES.

The provisions of this ordinance may be enforced by any law enforcement or code enforcement officer and may be subject to both civil and criminal penalties as provided in § 128.99.

§128.99 PENALTY.

- (A) Any person who violates any provision of this chapter for which no other specific penalty is provided shall be subject to the provisions of § 10.99.
- (B) Any person who violates §§ 128.03, 128.05 or 128.08 through 128.10 shall be punished as follows: for the first violation a civil penalty of \$200; for the second violation within a period of 24 months of the date of the first violation, civil penalty of \$250; and for any additional violations after the date of a second violation within a period of 24 months from the date of a first violation, civil penalty of \$300. Any person cited pursuant to this subsection may pay the minimum civil penalty within seven days from the date of issuance or request a hearing regarding such penalty to the Code Enforcement Board ("Board") in accordance with §§ 41.08 et seq. If the person fails to respond to the citation within seven days as referenced above, the person shall be deemed to have waived the right to a hearing. In this event, the Board shall enter a final order determining that the violation was committed and impose the civil penalty set forth in the citation.
- (C) Any person who violates §§ 128.04, 128.06 or 128.07 shall be guilty of a violation and shall be subject to a fine of not less than \$25 or more than \$200.
- (D) Any person who tows a vehicle from private property without a valid license in violation of § 128.02 shall be guilty of a violation and shall be subject to a fine of not less than \$25 or more than \$200. In addition to the criminal penalty, the person shall be subject to a civil penalty in the amount of \$500.
- (E) Each day such person, firm, or corporation shall neglect or refuse to comply with or violate any of the sections of §§ 128.01 through 128.10 shall constitute a separate offense.
- (F) 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: September 8, 2025.

Second reading: September 8, 2025.

Passed and approved: September 15, 2025.

Introduced by: Mr. Gibson

Maria D. Johnson

Maria Johnson, Mayor

Attest: Mitzi R. Kasitz

Mitzi R. Kasitz, City Clerk

| Council | Yea | Nay |
|--------------------|---------------|-------------|
| Ms. Bizzle | <u>Y</u> | <u> </u> |
| Ms. Burton-McBroom | <u>Absent</u> | <u> </u> |
| Mr. Gibson | <u>Y</u> | <u> </u> |
| Ms. Thompson | <u>Y</u> | <u> </u> |
| Mr. Vincent | <u>Y</u> | <u> </u> |
| Ms. Wakaba | <u>Y</u> | <u> </u> |