

ORDINANCE NO. 53

AN ORDINANCE FOR THE REGULATION AND LICENSING OF LIQUOR
IN THE CITY OF SHELLY

The City Council of the City of Shelly does hereby ordain as follows:

- SECTION 1 - Provisions of State Law adopted. The provisions of Minnesota Statutes, Chapter 340, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.
- SECTION 2 - License required.
- Subdivision 1. General requirement. No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of three (four) kinds: "on-sale", ("on-sale" wine,) "off-sale", and club licenses.
- Subdivision 2. On-sale licenses. "On-sale" licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit "on-sale" of liquor only.
- Subdivision 3. On-sale wine licenses. "On-sale wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes Section 340.11, Subdivision 20 and shall permit only the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food."
- Subdivision 4 (A) Off-sale licenses. "Off-sale Licenses shall be issued only to drug stores and exclusive liquor stores and shall permit "Off-sales" of liquor only.
- Subdivision 4 (B) Combination Licenses. A combination 'on-sale' and 'off-sale' license shall be issued only to an exclusive liquor store.
- Subdivision 5. Special club licenses. Special club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans' organizations which have been in existence for 10 years.
- SECTION 3 - Application for License.
- Subdivision 1. Form. Every application for a license to sell liquor shall state the name of the applicant, his age, representations as to his character, with such references as the council may require, his citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the liquor control director and shall be verified and filed with the city clerk. No person shall make a false statement in an application.
- Subdivision 2. Bond. Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or

United States Government Bonds of equivalent market value as provided in Minnesota Statutes, Section 340.12. Such surety bond or other security shall be in the sum of \$3,000.00 for a applicant for an "on-sale" license (or an "on-sale" wine license) and \$5,000.00 for an applicant for an "off-sale" license.

Comment: See comment under Subdivision 4.

Subdivision 3. Approval of security. The security offered under Subdivision 2 shall be approved by the city council and in the case of applicants for ("on-sale" wine licenses and) "off-sale" licenses, by the state liquor control director. Surety bonds shall be approved as to form by the city attorney. Operation of a licensed business without having on file with the city at all times effective security as required in Subdivisions 2 is a cause for revocation of the license.

SECTION 4 -

License fees.

Subdivision 1. Fees. The annual fee for a liquor license both "on-sale" and "off-sale" license shall be as established by the City Council by Resolution. The establishment of said fee shall be pursuant to the terms of the applicable Minnesota Statutes and shall be established in advance of the issuance of a liquor license for that particular year. The fee for all their licenses provided for by this Ordinance shall be as established by the City Council by Resolution and as they may from time to time as they in their sole discretion shall change.

Subdivision 2. Payment. Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the license fee. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid.

Subdivision 3. Term, pro rata fee. Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December.

Subdivision 4. Refunds. No refund of any fee shall be made except as authorized by statute.

SECTION 5 -

Granting of licenses.

Subdivision 1. Investigation and issuance. The city council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the council shall, in its discretion, grant or refuse the application. No "on-sale", wine license, or "off-sale" license shall become effective until it, together with the security furnished by the applicant, has been approved by the liquor control director.

Subdivision 2. Person and premises licensed; transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without city council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior council approval is a ground for revocation of the license.

SECTION 6 -

Persons ineligible for license. No license shall be granted to any person made ineligible for such a license by state law. No license shall be issued to an individual who is not a resident of the city.

SECTION 7 -

Places ineligible for license.

Subdivision 1. General prohibition. No license shall be issued for any place or any business ineligible for such a license under state law.

Subdivision 2. Time in business. No license shall be issued to any business, except an exclusive liquor store, until it has been in operation continuously for 12 months (~~years~~).

Subdivision 3. Delinquent taxes and charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

Subdivision 4. Distance from school or church. No license shall be granted within 600 feet of any school or within 300 feet of any church. In applying this restriction the distance shall be measured between the main front entrance following the route of ordinary pedestrian travel.

SECTION 8 -

Conditions of license.

Subdivision 1. In general. Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation

Subdivision 2. Licensee's responsibility. Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

Subdivision 3. Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

Subdivision 4. Display during prohibited hours. No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

Subdivision 5. Federal stamps. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

SECTION 9 -

Restrictions on purchase and consumption.

Subdivision 1. Liquor in unlicensed places. No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor "on-sale" or a permit from the liquor control director under Minnesota Statutes, Section 340.119 and no person shall consume liquor in any such place.

Subdivision 2. Consumption in public places. No person shall consume liquor on a public highway, public park, or other public place.

SECTION 10 -

Suspension and revocation. The council may either suspend for not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any application statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Sections 15.0418 to 15.0426.

SECTION 11 - Cabaret license.

In addition to making application for a liquor license, any applicant may apply to the City Council for a cabaret license which, if issued, shall allow a public dance on the premises of applicant. The application form for said cabaret license shall be on a form furnished and approved by the City Council. Each application for a cabaret license shall be accompanied by the Affidavit of two residents which shall affirmably show that the applicant is a person of good moral character and reputation in the community in which he lives and that the application has not within the five (5) years prior to making the application been convicted of a felony, gross misdemeanor or any violation of the provisions of Section 624.42 through 624.54 of the Minnesota Statutes. No such application shall be granted to any person of bad character or who has been so convicted as aforesaid nor to any person who is a keeper of any disorderly house of any kind nor for any place having a so-called private apartments or private rooms furnished or used for any other than legitimate business purposes which adjoins such dancing place or which may be reached by stairs, elevator or passage way lien from dancing place. Prior to issuance of a cabaret license, the City Council shall be satisfied that the place where the public dance is to be given or held is properly ventilated and equipped with necessary toilets, washrooms, lighting facilities and that such place is not likely to become a public nuisance or detrimental to public morals. In addition to the aforesaid information on application and affidavits, the City Council may from time to time require additional information as they in their sole discretion deems necessary.

Subdivision 2. Fees.

The fee for a cabaret license shall be set by the City Council annually in advance of the issuance of liquor licenses.

Subdivision 3. Restrictions on cabaret licenses.

A cabaret license shall only be issued to a liquor licensee. Said cabaret license shall be only for use on the premises where the liquor licensee is authorized to sell intoxicating liquors. No cabaret license shall be transferred except with the consent of the City Council. All cabaret licensees shall strictly obey and comply with the requirements of Minnesota Statutes 624.42 through and including 624.54 said Statutes being incorporated fully as if herein set forth verbatim.

SECTION 12 - Penalties.

A violation of this Ordinance shall be a misdemeanor, punishable by a jail sentence not to exceed 90 days or a money fine not to exceed \$500.00 or both.

SECTION 13 - Revocation of prior Ordinances.

All prior liquor licensing ordinances are hereby revoked. The terms and provisions of any prior ordinance which are inconsistent with the terms and provisions of this Ordinance are hereby revoked.

SECTION 14 - This Ordinance shall take effect and be enforced from and after its passage and publication.

Passed by the Council this 5th day of June, 1978.

ATTEST:

M. Folstad
City Clerk

APPROVED:

Alvina Swenson
Alvina Swenson, Mayor

AMENDMENT TO ORDINANCE NO. 53

AN ORDINANCE FOR THE REGULATION AND LICENSING OF LIQUOR
IN THE CITY OF SHELLY

THE CITY COUNCIL OF THE CITY OF SHELLY DOES HEREBY ORDAIN AS FOLLOWS:

Section 8. Subd. 6. That it be an express condition of all licenses granted under Section 2 of this Ordinance, That all non-employees of any licensed establishment must vacate the premises of any licensed establishment within 15 minutes after the time that the sale of liquor is prohibited.

This Amendment to Ordinance No. 53 shall take effect and be in force and effect from and after its passage and publication.

Passed by the Council this 9th day of Sept., 1981.

ATTEST:

Nancy Nelson
City Clerk

APPROVED:

Alvina Swenson
Alvina Swenson, Mayor

AMENDMENT TO ORDINANCE NO. 53

AN ORDINANCE FOR THE REGULATION AND LICENSING OF LIQUOR
IN THE CITY OF SHELLY

THE CITY COUNCIL OF THE CITY OF SHELLY DOES HEREBY ORDAIN AS FOLLOWS:

Ordinance No. 53 of the City of Shelly is hereby amended as follows:

A. Section 2. License required.

Subdivision 1. General requirement. No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the City any intoxicating liquor without a license to do so as provided in this Ordinance. Liquor licenses shall be of four (five) kinds: "on-sale", ("on-sale" wine), "off-sale", club license and special event license.

Subdivision 6. Special event license. Special event license shall be issued only to applicants approved in accordance with Section 5 of this Ordinance and shall permit sale of beer only.

B. Section 9

Restrictions on purchase and consumption.

Subdivision 2. Consumption in public places. No person shall consume liquor on a public highway or other public place, subject to Subdivision 3.

Subdivision 3. Liquor in public park. Liquor may be consumed in the public park, subject to the following conditions:

- (i) That a special event license is granted.
- (ii) No person or persons shall consume or possess with intent to consume any liquor in a public park in the City of Shelly between the hours of 10:00 o'clock P.M. and 8:00 o'clock A.M.
- (iii) For the purpose of this sub-section, liquor is defined so as to include non-intoxicating malt liquors and intoxicating liquors as defined by Minnesota Statutes.
- (iv) Possession of any liquor in a public park between the hours of 10:00 o'clock P.M. and 8:00 o'clock A.M. shall be prima facie evidence of possession with intent to consume.

Subdivision 4. Violation of this section shall constitute a misdemeanor.

Except as specifically amended herein or as specifically amended previously, Ordinance 53 remains in full force and effect.

This Ordinance shall take effect and be enforced from and after its passage and publication.

Passed by the Council this 30th day of May, 1985.

ATTEST:

Nancy Nelson
City Clerk

APPROVED:

[Signature]
Mayor