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ORDINANCE NO. 67

AN ORDINANCE FOR THE REGULATION AND LICENSING OF ALCOHOLIC BEVERAGES  
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 340A. 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 alcoholic beverages are adopted and made a part of this ordinance as if set out in full.

SECTION 2: Licenses 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 alcoholic beverage without a license to do so as provided in this ordinance. Liquor licenses shall be of ten kinds: "intoxicating liquor on-sale", "on-sale wine", "intoxicating liquor off-sale", "bottle club licenses", "special events", "Sunday license", "on-sale non-intoxicating liquor", "off-sale non-intoxicating liquor", a "combination license, and a "temporary non-intoxicating liquor license.

Subdivision 2. Intoxicating Liquor On-sale Licenses. "On-sale" licenses shall be issued only to hotels, clubs, bowling centers, restaurants, or congressionally chartered veterans' organizations, provided that the veterans' organizations have been in existence for at least three years and liquor sales will be to only to members and bona fide guests, and exclusive liquor stores.

Subdivision 3. On-sale wine licenses. "On-sale wine" licenses shall be issued only to restaurants having facilities for seating of at least 25 guests at one time and shall permit the sale of wine of up to 14 percent alcohol by volume, for consumption on the licenses premises only, in conjunction with the sale of food. "On-sale wine" licenses may also be issued by the City with the approval of the commissioner to licensed bed and breakfast facilities. A wine license shall authorize the sale of wine on all days of the week, unless the City restricts the licenses authorization to the sale of wine on all days except Sundays.

Subdivision 4. Temporary "On-sale" license. A temporary "on-sale" license may be issued by the City to a club or charitable, religious or non-profit organization in existence for at least three years in connection with a social event within the City sponsored by the licensee. The license may authorize the "on-sale" of intoxicating liquors for not more than three consecutive days and may authorize "on-sale" on premises other than the premises the licensee owns or currently occupies. The provisions of Minnesota Statute 340A.404 Subd. 10 shall apply.

Subdivision 5. Intoxicating Liquor Off-sale licenses. "Off-sale" licenses shall be issued only to drug stores and exclusive liquor stores and shall permit "off-sales" of intoxicating liquor.

Subdivision 6. Combination Licenses. A combined intoxicating liquor 'on-sale' and intoxicating liquor 'off-sale' licenses shall be issued only to an exclusive liquor store.

Subdivision 5. Bottle club license. A "Bottle club" license shall be required before any business, establishment or club which does not hold an "on-sale" intoxicating liquor license may directly or indirectly allow the consumption or display of intoxicating liquor or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a "bottle club" license. The provisions of Minnesota Statutes 340A.414 shall apply.

Subdivision 6. Sunday sales license. "Sunday sales" license shall be authorized in conjunction with the sale of food. It may be issued to any restaurant, club, bowling center or hotel with a seating capacity of at least 30 people which holds an "on-sale" intoxicating liquor license.

Subdivision 7. Non-intoxicating malt liquor license. The City may issue "off-sale" or "on-sale" licenses for the sale of non-intoxicating malt liquor. Any person licensed to sell intoxicating liquor at "on-sale" shall not be required to obtain an "on-sale" non-intoxicating malt liquor license. Any person licensed to sell intoxicating liquor at an "off-sale" shall be required to obtain an "off-sale" non-intoxicating malt liquor license.

Subdivision 8. Temporary Non-intoxicating malt liquor license. A temporary non-intoxicating malt liquor license may be issued to a club or charitable, religious or non-profit organization for the sale of non-intoxicating malt liquors for a period not to exceed seven days upon such other terms and conditions as the City may set.

SECTION 3: Application for License.

Subdivision 1. Form. Every application for a license to sell alcoholic beverages shall state the name of the applicant, his age, representation 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. Liability insurance. No retail license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by Section 340A.801. The minimum requirements for proof of financial responsibility may be given by filing:

- 1) A certificate that there is in effect for the licensed period an insurance policy or pooled coverage providing at least \$50,000.00 of coverage because of bodily injury to any one person in any one occurrence; \$100,000.00 because of bodily injury to two or more persons in any one occurrence; \$10,000.00 because of injury to or destruction of property of others in any one occurrence; \$50,000.00 for loss of means of support of any one person in any one occurrence and \$100,000.00 for loss of means of support of two or more persons in any one occurrence; or
- 2) A bond of a surety company with minimum coverages as provided in clause 1) above; or
- 3) A certificate of the state treasurer that the licensee has deposited with the state treasurer \$100,000.00 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.00.

A liability insurance policy required by this section must provide that it may not be cancelled for:

- 1) Any cause, except for non-payment of premium by either the insured or the insurer unless the cancelling party has first given thirty days notice in writing to the City of the insurance carrier's intent to cancel the policy; and
- 2) Non-payment of the premium unless the cancelling party has first given ten (10) days' notice in writing to the City of its intent to cancel the policy.

The security offered under this subdivision shall be approved by the commissioner. Operation of a licensed business without having on file with the City at all times effective security as required in this section is a cause for revocation of the license.

SECTION 4. License fees.

Subdivision 1. Fees. The annual fee for an alcoholic beverage 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 an alcoholic beverage license for that particular year. The fee for all these 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. A pro rata share of an annual license fee for retail licenses to sell intoxicating or non-intoxicating malt liquor, either on-sale or off-sale, may be refunded to the licensee or licensee's estate if:

- 1) The business ceases to operate because of destruction or damage.
- 2) The licensee dies.

- 3) The business ceases to be lawful for reason other than the license revocation.
- 4) The licensee ceases to carry on the license business under the license.

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 license shall become effective until it, together with the security furnished by the applicant has been approved by the commissioner, if required.

Subdivision 2. Person and premises licensed; transfer. Each license shall as 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 as transfer of the license and a transfer of stock without prior council approval is a ground for revocation of the license.

SECTION 6. 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. 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 3. 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 7. Conditions of license.

Subdivision 1. In General. Every license is subject to the condition in the following subdivision 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 alcoholic beverages 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.

Subdivision 6. Vacate the premises. All non-employees of any licensed on-sale intoxicating or non-intoxicating malt liquor license establishment must vacate the premises of any licensed establishment within 15 minutes after the time that the sale of liquor is prohibited.

Subdivision 7. Responsibility of licensee. Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverage by any employee authorized to sell alcoholic beverages in the establishment is the act of the licensee for the purposes of all provisions of this Ordinance. No alcohol shall be sold to obviously intoxicated persons or to persons under the legal age for the consumption or possession of alcohol.

Subdivision 8. Hours and days of sale. The hours and days of sale shall be as prescribed by Minnesota Statutes 340A.504.

Subdivision 9. No person under the age of 21 years shall sell or serve intoxicating liquor either on-sale or off-sale.

SECTION 8. Restrictions on purchase and consumption.

Subdivision 1. Liquor in unlicensed places. No person shall mix or prepare alcoholic beverages for consumption in any public place or place of business unless the place of business has a license to sell alcoholic beverages "on-sale" and no person shall consume alcoholic beverages in any such place.

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

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

- 1) That a special event license is granted.
- 2) No person or persons shall consume or possess with intent to consume any alcoholic beverages in a public park in the City of Shelly between the hours of 10:00 p.m. and 8:00 a.m.
- 3) Possession of any alcoholic beverage in a public park between the hours of 10:00 p.m. and 8:00 a.m. shall be prima facie evidence of possession with intent to consume.

Subdivision 4. Sunday consumption. A Sunday liquor license shall authorize the licensee to sell alcoholic beverages for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon on Sunday and 1:00 a.m. on Monday.

Subdivision 5. Violation of this section shall constitute a misdemeanor.

SECTION 9.

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 providing the same notice and opportunity to be heard as provided pursuant to Minnesota Statutes, Section 14.58 to 14.62 except that the hearing shall be conducted before a hearing examiner who is learned in the law.

SECTION 10.

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 \$700.00, or both.

SECTION 11. Revocation of prior Ordinances.

All prior alcoholic beverage 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 12. Effective Date. This Ordinance shall take effect and be enforced from and after its passage and publication.

SECTION 13. Severability. In the event any paragraph or provision of this Ordinance shall be deemed to be illegal or unenforceable, all other paragraphs and provisions shall continue to be effective.

Passed by the Council this 5<sup>th</sup> day of June, 1995.

APPROVED:

Charles M Koval  
Charles M. Koval, Mayor

ATTEST:

Nancy Nelson  
Nancy Nelson, Clerk-Treasurer

D:5/22