

# Town of Niagara-on-the-Lake

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**Report:** OPS-22-022

**Committee Date:** 2022-05-17

**Due in Council:** 2022-05-17

**Report To:** Council

**Subject:** Caleche – Licence to Operate

## 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council approve the Licence to Occupy Town Land Agreement (LOTLA) to occupy lands owned by the Town of Niagara-on-the-Lake for the owner/operators – Sentineal Carriages Inc. & Queens Royal Tours (Appendix I);
- 1.2 Council approve the revised Operating Terms of Reference (OTR) for operating a Caleche in the Town of Niagara-on-the-Lake (Appendix II);
- 1.3 Council approve the Lord Mayor and Town Clerk to authorize the Licence to Occupy Town Land Agreement for Sentineal Carriages Inc. and Queens Royal Tours; and
- 1.4 Council approve five (5) Licences to Occupy Town Land, allocated as per the Agreement.

## 2. EXECUTIVE SUMMARY

Town Staff and the Caleche operators worked together to develop a program to instruct how the caleche could operate safely within the Town of Niagara-on-the-Lake.

Engagement was undertaken with the following organizations:

- Town of Niagara-on-the-Lake – Staff and legal counsel
- Caleche Operator – Sentineal Carriages Inc. (Laura & Fred)
- Caleche Operator – Queens Royal Tours (Jeff)
- Niagara Region – business licencing Staff and legal counsel

From this engagement, two documents were developed:

- Revision to the existing Operating Terms of Reference (OTR)
- Licence to Occupy Town Land Agreement (LOTLA).

Staff recommend Council approve both documents for immediate implementation. The process would encompass five (5) licences under the LOTLA. The LOTLA and the OTR structure are outlined and detailed with the Town and the Niagara Region's conditions. Issuing the LOTLA ensures the caleche is operating following the direction of the municipality and allows the application of Administrative Penalties under the *Municipal Act*.

An Annual Licence Fee was determined, and if Council ratifies the recommendations of the LOTLA and the OTR, Staff will reconvene with the Caleche operators to finalize the operation requirements.

### 3. PURPOSE

The purpose of this report is to present Council with a Licence to Occupy Town Land Agreement (LOTLA) and a revised Operating Terms of Reference (OTR) for the operations of the Caleches in the Town of Niagara-on-the-Lake.

### 4. BACKGROUND

Staff have been in discussions with both operators of the Caleches (Sentinel Carriages and Queens Royal Tours) to develop a LOTLA to occupy lands owned by the Town at the corner of King & Queen Street. In addition to revising the OTR that Council has previously approved (CS-10-017), the LOTLA and the OTR will help guide the caleche operations in the 2022 season and future years.

The LOTLA clearly defines the area of operations in the Town road allowance and the term. Town Staff discussed with the Niagara Region Business Licensing department to ensure alignment with the caleche operators' approvals under Regional By-law 2021-58, as amended.

The LOTLA was drafted in consultation with the Town's solicitor to ensure the necessary controls are in place. The LOTLA is attached as **Appendix I**. The main sections of the LOTLA detail the following areas:

1. Area to be occupied by the caleche operations
2. Term of the Agreement
3. Annual licence fee
4. Timing of operations
5. Niagara Region licencing requirements
6. Insurance requirements
7. Termination of the licence agreement
8. Covenants

The OTR was revised to provide an operating framework for the existing operators. The OTR is attached as **Appendix II**. The main sections of the OTR detail the following areas:

1. Town Requirements & Expectations
2. Operating Routes/Districts
3. Other Operating Specifications
4. Licensing
5. Enforcement
6. Guiding Principles
7. Functions of the Caleche

### 5. DISCUSSION / ANALYSIS

The Regional Municipality of Niagara Business Licensing department requires that the owner of a caleche business obtain a licence to operate as per the Niagara Regional Business Licensing By-law No. 2021-58 (as amended) to be able to charge patrons a fee. To be approved for a caleche licence from the Niagara Region, one of the conditions is that the caleche business receives Permission/Licence from the municipality where they intend to operate.

In Niagara-on-the-Lake, only five (5) Licences will be granted to operate from the King & Queen Street location. Under the previously approved OTR, the two caleche companies had the Town's permission

to operate in the Town of Niagara-on-the-Lake, but the area was not licenced. Those companies are Sentineal Carriages Inc. and Queens Royal Tours Inc.

- *Sentineal Carriages Inc. has three (3) licences*
- *Queens Royal Tours has two (2) licences*

Both companies have expressed an interest in having additional licences to operate at the King & Queen Street location. This quantity and distribution of permissions have been debated at length in the past; Council has directed that the maximum number of licences they wish to permit is five (5) licences. Town Staff believes the Old Town cannot absorb another horse-drawn carriage, especially during the busier months. Therefore, Staff is not recommending changing the number of licences issued.

### **Standing Area**

Town Staff has worked with the caleche operators to clearly define the areas where they can operate. Town Staff has been clear with the caleche operators that they must stay in the area identified in **Appendix III**. Encroachment outside the identified area causes vehicular traffic and pedestrian traffic concerns. Staff reviewed the site and believes the area can handle 3-4 caleches safely at a time.

### **Caleche Business Operating Licences**

The Town does not typically licence businesses. However, in this circumstance, it is necessary in order to ensure safe operations in the Town, appropriately manage risk, and balance the needs of the operators, residents and visitors. In consultation with legal counsel, Staff developed a licence agreement. The licence agreement requires the operator to complete the following items before a licence can be issued:

1. Obtain a licence from the Niagara Region (Niagara Region Bylaw 2021-58, as amended)
2. Sign the LOTLA
3. Provide the necessary insurance
4. Agree to comply with all the requirements of the OTR
5. Pay the Annual Licensing fees

A caleche business shall not begin operation until the Town has issued a LOTLA. The licence allows the Town to have a measure of control and a means of enforcement over the operation that currently only exists at the Niagara Region. By issuing a licence, the Town may also adopt Administrative Penalties under the Municipal Act for violations of the terms of the permit.

### **Enforcement and Penalties**

By introducing a LOTLA/OTR, the Town may apply Administrative Penalties under the *Municipal Act*. The penalties will be assessed against the Town's effort to enforce (i.e. the fines will be tied to the amount of Staff time required to monitor and investigate). The number and significance of violations incurred in any given year may also lead to a suspension of the LOTLA and possibly suspension of the Niagara Region licences. Should an infraction of any of the LOTLA or the OTR occur, the Town shall have the right to rescind permission for the Caleche business to operate in Niagara-on-the-Lake. Enforcement will be the responsibility of the Town's By-law Enforcement division in consultation with the Niagara Region.

## **6. STRATEGIC PLAN**

### **Pillar(s)**

1. Protect Distinctive Community Assets

### **Objective(s)**

1.1 Preserve unique community elements

### **Tactic(s)**

1.3 a) Actively steward heritage, agricultural, wine and cultural assets for the benefit of residents and tourists

## **7. OPTIONS**

- 7.1 **Option 1:** Council approves the LOTLA and the revised OTR as presented. **(As recommended).**
- 7.2 **Option 2:** Council declines LOTLA and the revised OTR and gives direction to Staff with revisions to the two agreements. (Not recommended)
- 7.3 **Option 3:** Council declines the LOTLA and the revised OTR. Operations of the caleches would not be allowed in the Town of Niagara-on-the-Lake. (Not recommended)

## **8. FINANCIAL IMPLICATIONS**

Section 2.01 of the LOTLA identifies the requirements for payment of an Annual Licence Fee. That fee was determined to be \$500 per caleche operator per year. Payment terms identify April 1<sup>st</sup> of each year as the due date.

## **9. ENVIRONMENTAL IMPACT**

A Caleche operation has minimal impact on the environment. The operation emits far fewer emissions than a motor vehicle. The low speed of the caleche will allow the customers a unique view of the natural beauty of the Town of Niagara-on-the-Lake.

## **10. COMMUNICATIONS**

Upon approval by Council, Staff will meet with the Caleche operators to finalize the requirements of the LOTLA and the OTR. Town Staff will also forward the decision of Council to the Niagara Region Business Licensing department.

## **11. CONCLUSION**

The caleche operations provide a unique view of the Town and a heritage tourism element. This report and the accompanying Licence to Occupy Town Land Agreement and revised Operating Terms of Reference will allow the caleche businesses to operate while addressing the operations' municipal challenges and balancing the needs of the caleche operations, residents, businesses and visitors.

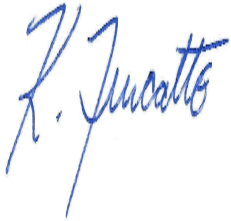
## **12. PREVIOUS REPORTS**

- **CS-10-017**

### 13. APPENDICES

- **Appendix I** – Licence to Occupy Town Land Agreement (LOTLA)
- **Appendix II** – Caleche Operating Terms of Reference (OTR)
- **Appendix III** – Map – King and Queen St Location

**Prepared & Recommended by:**



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**Submitted by:**



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