



Subject: *DAR Land Management - Proposed DAR Corridor Legacy Encroachments Policy*
To: Corporate & Residential Services Committee
Date Prepared: July 6, 2026
Related Motions: In Camera Direction, C26(58)
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Summary

During previous Council discussions, concerns were raised regarding the application of Bylaw A-300, *Encroachment on Municipal Real Property* (the “Bylaw”) to properties adjoining the Former Dominion Atlantic Rail (DAR) Line. Through Motion C26(58), Council directed staff to report on how Bylaw A-300 “would work around properties adjoining and adjacent to the DAR line.”

During second reading of the Bylaw at the March 2026, Council expressed interest in the development of a Council Policy specifically addressing encroachments along the former DAR Line.

This report presents a proposed *DAR Corridor Legacy Encroachments Policy* (the proposed “Policy”) to complement Bylaw A-300.

Note: Staff do not recommend an easement-specific policy at this time, as easement agreements are generally standardized, prepared in accordance with Land Registration Office and legal requirements, and included in the CAO Authority Policy.

Financial Impact Statement

Consistent with previous Council discussions, no fees are proposed for property owners entering into Encroachment Agreements for Legacy Encroachments identified on the 2025 survey sketches, or otherwise proven to have existed at such time. The Municipality will absorb these initial administrative costs through the approved 2026-2027 operating budget (corpserv 8100).

New/proposed encroachments (those not identified on the 2025 sketches, or otherwise demonstrated to have existed as such time) would be subject to the application process in Bylaw A-300; Council would retain the discretion to apply fees or waive fees in relation to the *Municipal Fee Policy*.

Recommendation

Staff recommend that Council accept the proposed Policy.

Recommended Motions

Regular Meeting of Council (Policy & In Camera) - July 23, 2026

Move that Council gives notice of intent to adopt the DAR Corridor Legacy Encroachments Policy as presented and attached to the July 23, 2026 Regular Meeting of Council (Policy & In-Camera) agenda.

Regular Meeting of Council - July 29, 2026

Move that the Corporate and Residential Services Committee recommends that Council adopt the DAR Corridor Legacy Encroachments Policy as presented and attached to the July 23, 2026 Regular Meeting of Council (Policy & In-Camera) agenda.

Background

In 2026, Council adopted Bylaw A-300, *Encroachment on Municipal Real Property*, following first and second readings in February and March, respectively. The Bylaw was intended to apply to encroachments on all municipal properties, with permissions for Council to delegate authority to the CAO to approve encroachments that meet Council-approved criteria or fall within specific classes of projects or property, such as the former DAR Line - Section 9.3(a).

During Council's consideration of Bylaw A-300, in February 2026, concerns were raised regarding how the Bylaw would be applied to properties along the DAR Line, resulting in Motion C26(58). Subsequent Council discussion in March 2026 identified interest in a dedicated policy for managing encroachments within the DAR Corridor.

In response, staff developed the proposed Policy to address existing "legacy" encroachments identified on the 2025 Survey Sketches, or otherwise proven to have existed at such time. Encroachments that do not meet the definition of a Legacy Encroachment would continue to be managed under Bylaw A-300.

Discussion

PROPOSED POLICY

As part of a jurisdictional scan, staff did not identify any comparable property-specific encroachment policies. Encroachments are typically managed through provisions within encroachment bylaws, rather than specific/standalone policies.

Staff have drafted the proposed *DAR Corridor Legacy Encroachments Policy* to supplement Bylaw A-300 by providing DAR corridor-specific guidance for the review and administration of existing Legacy Encroachments, while maintaining the Municipality's ability to protect public lands, preserve future trail opportunities, and meet operational requirements.

Section 1 outlines the general policy philosophies. It acknowledges that certain Legacy Encroachments may be permitted via an Encroachment License. It is clear that licensing of the encroachment does not grant any ownership or legal rights to the Municipal owned land.

Section 2 indicates that to qualify as a Legacy Encroachment the encroachment must be identified on the 2025 Survey Sketches; this establishes a clear and consistent point in time from which eligibility is generally assessed. Where an encroachment is not shown on the 2025 Survey Sketches, the Municipality may recognize it as a Legacy Encroachment if the omission is a surveying, drafting, or administrative error. The Policy further specifies that any encroachment in contravention of a Municipal bylaw, permit, agreement, or other applicable law or regulation may not be eligible for consideration as a Legacy Encroachment. This ensures the Policy addresses historic encroachments without undermining the Municipality's existing regulatory requirements. The Legacy Encroachment framework is intended to complement - not replace or override - the Municipality's existing regulatory authorities, such as the Municipality's Land Use Bylaw and development and building permit requirements.

Section 3 establishes Corridor-specific review criteria and implementation guidance, while maintaining the Municipality's ability to protect public lands, and support future trail development. The encroachment must not interfere with current or planned municipal use, pose risks to safety or the environment and must not impact operational or municipal liability. The nature of the encroachment (permanence, construction, purpose, location, and impact) may be considered, as well as the length of time the encroachment has existed within the DAR Corridor. Encroachments that satisfy the requirements of both the Policy and Bylaw A-300 may be formalized through Encroachment Agreements. The Policy also permits the Municipality to determine that an encroachment is not a Legacy Encroachment or it is not appropriate to authorize it via Encroachment

License where the encroachment is temporary, readily moveable, minor in nature, or can be reasonably removed or relocated on the encroaching property owner's property without significant hardship.

Section 4 of the Policy requires Municipal approval for any alteration, reconstruction, or replacement of a Legacy Encroachment, while permitting routine maintenance/repair that does not materially change the encroachment. Any reconstruction or replacement of a Legacy Encroachment shall only be permitted with the prior written approval of the Municipality.

Section 5 indicates that Encroachment Licenses are granted to the encroaching property owner and are not assigned or transferred without the prior written approval of the Municipality. However, the proposed Policy authorizes the CAO to approve the assignment of licenses in specific situations, provided the encroachment remains unchanged, including: the administration of an estate; a transfer of property between Immediate Family Members; or the Encroachment License relates to a private well servicing the property or is for the portion of a primary dwelling. Any other assignment shall require Council approval and be addressed on a case-by-case basis.

Section 6 provides enforcement context, clarifying that Legacy Encroachments under review will not be considered unauthorized provided they remain substantially unchanged and property owners cooperate with the review process. Where a property owner fails to respond, provide the requested information, execute an agreement, or otherwise impedes the review process, the Municipality may treat the encroachment as unauthorized and proceed with enforcement. This section also allows the Chief Administrative Officer to refer a Legacy Encroachment to Council for enforcement consideration before enforcement action is taken where the action may have significant implications for the property owner.

Section 7 outlines where conveyance of encroached lands is permitted. Where a Legacy Encroachment occupies only a minor portion of Municipal property, does not interfere with Municipal use, and the property owner can provide evidence satisfactory to the Municipality that the encroachment has existed for at least twenty (20) years, the Municipality may consider conveying the encroached portion of lands to the property owner. Where a Legacy Encroachment has existed for less than twenty (20) years, conveyance is on a case-by-case basis, where it is determined to be in the Municipality's best interest.

Section 8 proposes no fees be charged for the execution of Encroachment Licenses for Legacy Encroachments, unless otherwise determined by Council - these costs were factored into the current operating budget. In the instance of conveyance, the property owner shall reimburse the Municipality for actual third-party costs, including legal, survey, subdivision, registration, and other related costs, unless otherwise approved by Council. Reimbursement shall be required prior to registration of conveyance. Municipal staff time to be absorbed through existing operating budgets. Conveyance was not considered in the current operating budget; if Council wishes to cover all costs of conveyances to address encroachments, staff will proceed with current operating budget and request additional funds in 2027-28 to top up project budget to accommodate this change.

LEGAL REVIEW

Staff requested legal review of the proposed Policy, including legal review to ensure there are no conflicts between the proposed Policy and Bylaw A-300. Legal has indicated that nothing in the proposed Policy conflicts with applicable sections in Bylaw A-300.

STRATEGIC ALIGNMENT

The proposed policy supports the key strategies of Sustainable Infrastructure and Corporate Excellence.

LEGISLATIVE AUTHORITY

The recommendations in this report align with the Municipal Government Act, Bylaw A-300 and the CAO *Authority Policy*.

FINANCIAL CONSIDERATIONS

Please see Financial Impact Section

Attachments

Proposed DAR Corridor Legacy Encroachments Policy