TOWN OF SCARBOROUGH, MAINE

Town of Scarborough Conservation Commission

July 23, 2025 | 6:00 pm | Hybrid: Town Council Chambers B and via Zoom

To participate in the Conservation Commission meeting remotely, please follow this link:
https://scarboroughmaine.zoom.us/webinar/register/WN_G53c1O6-TXmFPlnK1GW_Ww

To view the Conservation Commission, please follow this link:
https://www.youtube.com/channel/UCD5Y8CFy5HpXMftV3xX73aw

Agenda

6:00 pm **Call to order and attendance**

(1) Welcome and introductions

(2) Land acknowledgement

(3) Vote on minutes from 5/28/25 meeting

(4) Review 7/23/25 agenda

(5) Public comment

6:15 pm **Old Business**

(1) Tree City USA – update on process

(2) Planning Board Submittals – nothing this month

6:30 pm **New Business**

(1) LD 1829 – overview of legislation and impact on Scarborough's Rate of Growth Ordinance (see attached memo)

(2) Sustainable Scarborough Day – discuss Conservation Commission table/activity

7:15 pm **Updates**

(1) Education Subcommittee

(2) Town Council

(3) Parks and Conservation Land Board

(4) Transportation Committee

(5) Sustainability Committee

(6) Planning Projects: Vulnerability Assessment & Climate Action Plan

7:30 pm **Adjourn**

Next meeting: August 27, 2025

Town of Scarborough Conservation Commission

May 28, 2025 | 6:00 pm | Hybrid: Town Manager's Conference Room and via Zoom

Minutes - DRAFT

Present in person:
Commission: Kate Borduas, Bennett Flanders, Randi Hogan, Crescie Mauer, Abel Plaud
Staff: Jami Fitch, Autumn Speer

Present on Zoom:
Commission: Cathleen Miller, Maggie Vishneau
Council: Karin Shupe

Meeting recording

Call to order

1. Meeting is called to order at 6:04 pm.
2. Randi offers a land acknowledgement to recognize the Wabanaki People as traditional stewards of Scarborough.
3. Bennett motions to accept minutes from the 4/23/25 meeting, Kate seconds. Roll call vote is unanimous. Motion passes.

Public Comment

1. None

Old Business

1. Select Chair
   - Bennett shares that he is stepping down from the Commission because he is moving out of Scarborough.
   - Cathleen is willing to serve as Chair.
   - Randi nominates Cathleen as Chair. Abel seconds. Roll call vote is unanimous.
2. Tree City USA
   - Autumn reviews updated tree ordinance that is required for Scarborough to become designated as "Tree City USA."
   - The Commission suggests edits to the purpose statement, which Autumn incorporates into the document during the meeting.
   - Bennett suggests adding "nuisance" to section 5.e.
   - Autumn shares that staff still need to do some work on the program (e.g., identifying Town Arborist position) to inform the ordinance.
   - The next step will include a Town Council workshop and review by the Ordinance Committee.
   - Abel motions to approve the draft Tree Care Ordinance language to be amended as discussed in the meeting. Kate seconds. Roll call vote is unanimous.

3. Planning Board Submittals
   - Autumn shares a sketch plan for a proposed 5,000 sq. ft. salon building and a 3,500 sq. ft. retail/office space on Rt. 1 adjacent to the Scarborough Marsh (map/lot U035002A) .
   - Staff had a pre-application meeting with the developer. The following items were discussed:
     - Proposed parking needs to be reduced.
     - The resource protection / shoreland zoning line needs to be field-verified.
     - The position of one of the buildings may need to be adjusted to move it out of the resource protection zone.
   - The Commission is concerned with the amount of impervious cover proposed.
   - Based on the Vulnerability Assessment, it does not appear the parcel is at risk of future flooding from sea level rise, nor is it an area of potential marsh migration.

Updates

1. Town Council
   - Karin expresses her sadness in Bennett stepping down and asks the Commission to think of candidates who may be able to serve on the Commission and Planning Board.
   - The Council will review goals at a meeting in June.
   - Stream Protection Overlay Zone for Phillips Brook and Red Brook was approved by the Town Council.
2. Education Subcommittee
   - Cathleen is considering reaching out to the Scarborough Public Library (SPL) about doing a book group on the book *Climate Grief*.
   - Kate will give a presentation on the loss of old growth forests at SPL in the fall. Scarborough Land Trust is sponsoring the presentation. The Commission should help promote it.
   - Jami reminds the group the Sustainable Scarborough Day is coming up. The Commission should consider having a table and activity.
3. Parks and Conservation Land Board (PCLB)
   - Maggie shares the PCLB is in the process of updating its assessment tool to align it with the Open Space Plan.
4. Transportation Committee
   - The Townwide Transportation Assessment is undergoing final edits.
5. Sustainability Committee
   - The Sustainability Committee is exploring a municipal solar array.
   - A Climate Action Plan will get underway in the coming months.
6. Open Space Plan
   - Staff are working with the Open Space consultant to develop an online Open Space dashboard to track 30x30 and a GIS app to evaluate potential open space.
7. Vulnerability Assessment
   - No update.
8. Other updates
   - Randi shares that The Town has signed a contract to being construction on the Eastern Trail Close the Gap project.

Next meeting: July 23, 2025

Meeting adjourned at 7:12 pm.

DRAFT – TOWN OF SCARBOROUGH TREE CARE ORDINANCE
Conservation Commission Review 5.28.25

A. Purpose

It is the purpose of thise Scarborough Tree Care Ordinance to to preserve and enhance Scarborough's natural beauty and encourage healthy ecosystems; to provide air cooling and purification, carbon sequestration, stormwater management, and promote and to protect public health and , safety. This ordinance provides and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants on Town-owned properties and public rights-of-way. This ordinance shall designate which plants are to be planted in order to ensure "right plant, right place" principles are achieved. This ordinance establishes the Tree Care Advisory Board and defines its membership and duties. .

B. Applicability

This ordinance provides full power and authority over all trees, plants, and shrubs located within rights-of-way, parks, and public places in the town, and over trees, plants, and shrubs located on private property that constitute a nuisance or hazard as described herein.

C. Administration

1. Town Arborist – We need to determine who this will be

a. The Town Arborist and/or their designee shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all public streets, rights-of-way, parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any public water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.
b. All Town departments will coordinate as necessary with the Town Arborist and will provide services as required to ensure compliance with this ordinance as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under the direct jurisdiction of the Town Arborist.
c. No person shall hinder, prevent, delay, or interfere with the Town Arborist or their agents while engaged in carrying out the execution or enforcement of this Ordinance.
d. The Public Works Department shall have the right to prune, spray, maintain, and remove public trees as may be necessary to ensure public safety or to

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preserve or enhance the beauty of public places. Spraying shall be undertaken in accordance with State laws and the Town's Organic Pest Control Policy.

e. Pruning, planting, removing or any other tree work done on public trees by volunteers or Town employees under the supervision and operation of the Town Arborist and/or their designee is permitted.
f. Work on public trees by an electric utility company is permitted.

2. Tree Care Advisory Board Establishment and Procedures

It is hereby created and established a Town Tree care Advisory Board for the Town of Scarborough, hereinafter referred to as the "Board."

a. **Terms.** Member shall be appointed by Town Council for three-year terms, except for the initial appointments, which shall be two (2) members for terms of one year, two (2) members for terms of two years and one (1) member for a term of three years and two (2) alternates for a term of two years. Members whose terms expire shall continue to serve until their successors are appointed and qualified.
b. **Council Liaison.** The Town Council shall appoint one of its members to serve as Council liaison to the Committee. The Council liaison shall not be a voting member.
c. **Staff Liaison.** The Town Manager, or their designee, shall serve as staff liaison to the Committee. The staff liaison shall not be a voting member.
d. **Officers**. The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.
e. **Meetings.** The Board shall meet a minimum of four times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.

3. Tree Care Advisory Board Duties and Responsibilities

The Board shall act in an advisory capacity to the Town Arborist and shall:

a. Coordinate and promote Arbor Day activities;
b. Support public awareness and education programs relating to trees;
c. Review Town department concerns related to tree care;
d. Submit an annual report of its activities to Town Council, including tree planting and maintenance activities;
e. Assist with the annual application to renew the Tree City USA designation;
f. Develop and maintain a list of desirable trees for planting on public property, using the Preferred species list from Chapter 405b Scarborough Site Plan Review Ordinance. The list shall be made available to the general public, and its use shall be encouraged for private planting.

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g. Other duties as assigned by Town Council.

D. Public Landscape Standards

1. Tree Planting

a. Trees planted on public property by abutting property owners or other persons shall be selected and located in accordance with this ordinance and in accordance with Town policy. Notification shall be made to the Town Arborist and/or their designee and approval shall be given prior to any planting. In addition, Dig Safe, the Scarborough Public Works Department, Scarborough Sanitary District, Maine Water, CMP, and the Portland Water District shall be consulted before any planting.
b. All such designs shall be submitted to the Town Arborist and/or their designee for approval prior to any plantings.

2. Species Selection

Species shall be selected from the approved list developed by the Tree care Advisory Board in accordance with all other Town Standards.

3. Tree Installation Requirements

The following minimum installation requirements shall be met, unless otherwise approved by the by the Town Arborist and/or their designee.

Species Size	Minimum Spacing	Minimum Soil Surface	Minimum Soil Volume
Small Trees (mature height of 30' or less)	20 ft.	36 sq. ft.	36 cu. ft.
Medium Trees (mature height of 30' -45')	30 ft.	48 sq. ft.	48 cu. ft.
Large Trees (mature height over 45')	40 ft.	60 sq. ft.	60 cu. ft.

4. Tree Spacing Requirements

The distance trees may be planted from curbs or curb-lines, sidewalks, street corners, driveways, buildings and sidewalks shall be in accordance with the species sizes listed in Definitions, Section C. of this ordinance. No trees may be planted closer to any curb, sidewalk, driveway, building, or street than the following:

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Species Size	Distance to Curb or Sidewalk	Distance to Driveway ~~or Building~~	Distance to Building	Distance to Street Corner
Small Tree	2 ft.	10 ft.	10’	20 ft.
Medium Tree	5~~3~~ ft.	10 ft.	15’	20 ft.
Large Tree	10~~4~~ ft.	~~10~~ 15 ft.	25’	20 ft.

No public tree shall be planted within ten feet (10’) of any hydrant or any underground utilities. Only small trees may be planted under or within 10 feet (10’) of any overhead utility wire.

5. **Public Tree Maintenance**
   a. **Authority.** No person except the Town Arborist, their designee(s), or an approved contractor ~~hired by the Town Arborist~~ may prune, plant, transplant, or remove public trees.
   b. **Pruning.** The Public Works Department shall have the right to prune any public tree if, in the opinion of the Town Arborist and/or their designee, it interferes with visibility of any traffic control devise or intersection, or interferes with pedestrian or vehicular traffic. A clearance of fourteen feet (14’) above street surface or eight feet (8’) above the sidewalk surface shall be maintained. If such obstructing public tree is on private property, the Town Arborist and/or their designee shall notify the property owner of the intent to prune.
   c. **Tree Topping**. It shall be unlawful for any person or the Town to top any public tree. Trees severely damaged by storms or other causes may be exempted from this prohibition at the determination of the Town Arborist and/or their designee.
   d. In lieu of topping, public trees under utility wires or other obstructions where other pruning practices are impractical or not considered arboriculturally sound may be removed by the Town Arborist and/or their designee.
   e. **Private Property.** No property owner shall allow a tree, or other plant growing on their property to obstruct or interfere with pedestrians or the view of drivers, thereby creating a nuisance or hazard. If an obstruction persists, the Town Arborist shall notify the property owners to prune or remove the tree or plant. If the owner fails to comply with the notice, the Town may undertake the necessary work and charge the cost to the property owner.
   f. **Disease.** Upon the discovery of any destructive or communicable disease or other pestilence that endangers the growth or health of trees or threatens to spread disease or insect infestations, the Town Arborist may at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated. The notice shall require such property owner to eradicate, remove, or otherwise control such condition within a

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reasonable time to be specified in such notice. If the owner fails to comply with the notice, the Town may undertake the necessary work and charge the cost to the property owner.

6. Tree Preservation

Wherever practical, existing specimen trees, native species over 20” at DBH, tree clusters or other significant vegetation shall be preserved on public properties. When preservation is proposed, the following protection must be in place to ensure survival of the preserved tree.

a. Site features must be designed to minimize disturbance to protected trees.
b. Tree wells or cut areas may be used to preserve the original grade around the tree.
c. In the drip line of protected trees, no cut or fill may be at least four (4) inches deep unless a qualified arborist or forester evaluates and approves the disturbance.
d. Finished grades must slope away from trunks to avoid water concentrated at tree bases.
e. During construction, perimeter fencing must be erected around protected trees, at least six (6) feet from the trunk or one-half of the drip line, whichever is more.
f. Storage or movement of equipment, material, debris, or fill in the tree protection zone is prohibited.
g. Damaging attachments, wires, signs or permits cannot be fastened to protected trees.
h. Trenches or footings should be at least eight (8) feet from trunk bases. Tunneling under large diameter roots may be required to prevent root damage.

7. Heritage Trees

The Town Arborist shall have as one of their duties the location, selection, and identification of any trees that qualify as heritage trees. A tree may qualify as a heritage tree if it meets one or more of the following criteria:

a. The tree (or group of trees) is associated with events that have made a significant contribution to the broad pattern of national, state, regional, or local history;
b. The tree (or group of trees) is associated with the life of a person or group of historic significance;
c. The tree (or group of trees) represents a significant and distinguishable entity within a community or location; and/or
d. The tree (or group of trees) has age, size, or species significance that contributes to its heritage status.

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E. Violations and Penalties

a. **Violations.** Any failure to comply with the terms, conditions, provisions, or any notice issued pursuant to this ordinance, shall constitute a violation.

b. **Penalties.** Any person who violates any provision of this ordinance shall be subject to a fine payable to the Town of Scarborough of up to $100.00 each day of the violation. No penalty shall be assessed for failure to act during any notice period, unless remediation ordered by any notice is not accomplished within the designated timeframe. In addition, if, as a result of the violation of any provision of this ordinance, the injury, mutilation, or death of a public tree occurs, the penalty shall include the replacement value of the public tree as determined by the Town Arborist and/or their designee.

F. Severability

Should any section, clause, or provision of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

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TOWN OF SCARBOROUGH, MAINE

MEMO

To: Town Council

From: Autumn Speer, Director of Planning and Codes

Date: July 16, 2025

Re: Rate of Growth FY 2025 Biennial Report

The purpose of the Rate of Growth Ordinance is to protect the health, safety and general welfare of the residents of Scarborough through placing reasonable and appropriate limitations on residential development in accordance with the Comprehensive Plan.

The revised Rate of Growth Ordinance went into effect on July 1, 2023, and provides for rate of growth permits in three distinct areas, defined by zoning within the town. The zoning districts are also aligned with the Growth Area Map in the Comprehensive plan. Each area is allocated a specific number of permits on an annual or three-year basis. The ordinance also allocates specific number of permits for affordable and workforce housing and includes several exemptions, such as accessory dwelling units and gift lots.

REPORTING & REVIEW OF ORDINANCE

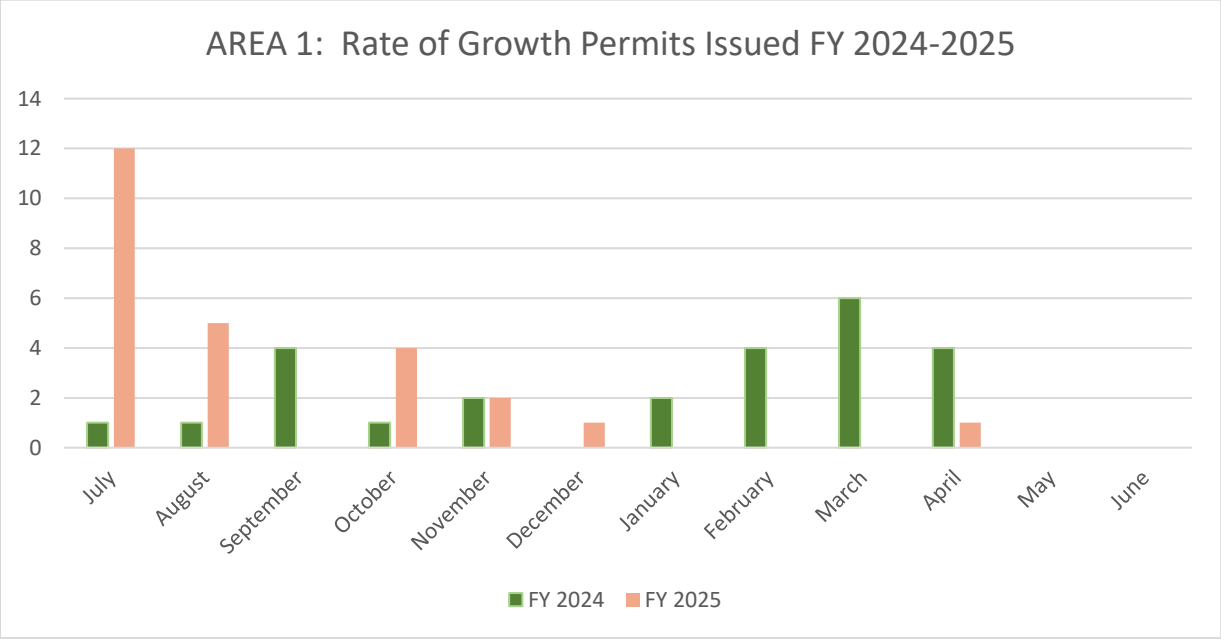
The Code Enforcement Officer maintains a listing of all permits issued and exemptions granted on the Town website: GMO REPORTING. The Planning and Codes Department is also tasked with preparing an annual report to the Town Council as to the status of growth permits issued and remaining in the three areas.

In 2025, the Town Council is tasked with conducting a biennial review of the ordinance to determine if it remains consistent with the Town's ability to absorb growth, to achieve the priorities outlined within the Comprehensive Plan, and to determine if the number of growth permits available under this Ordinance should be adjusted by amendment.

TOWN OF SCARBOROUGH, MAINE

FY 2024-2025 AREA 1: RURAL & LIMITED GROWTH AREAS

Zoning:	RF, RFM, R2, R3, R4, R4A, RH and RH2
Issued:	Building Permit
Allocation:	25 per year; 75 total per 3 years 50% Common Scheme
Used 2024:	25
Used 2025:	50
Remaining:	0 (new 25 starts over July 1)



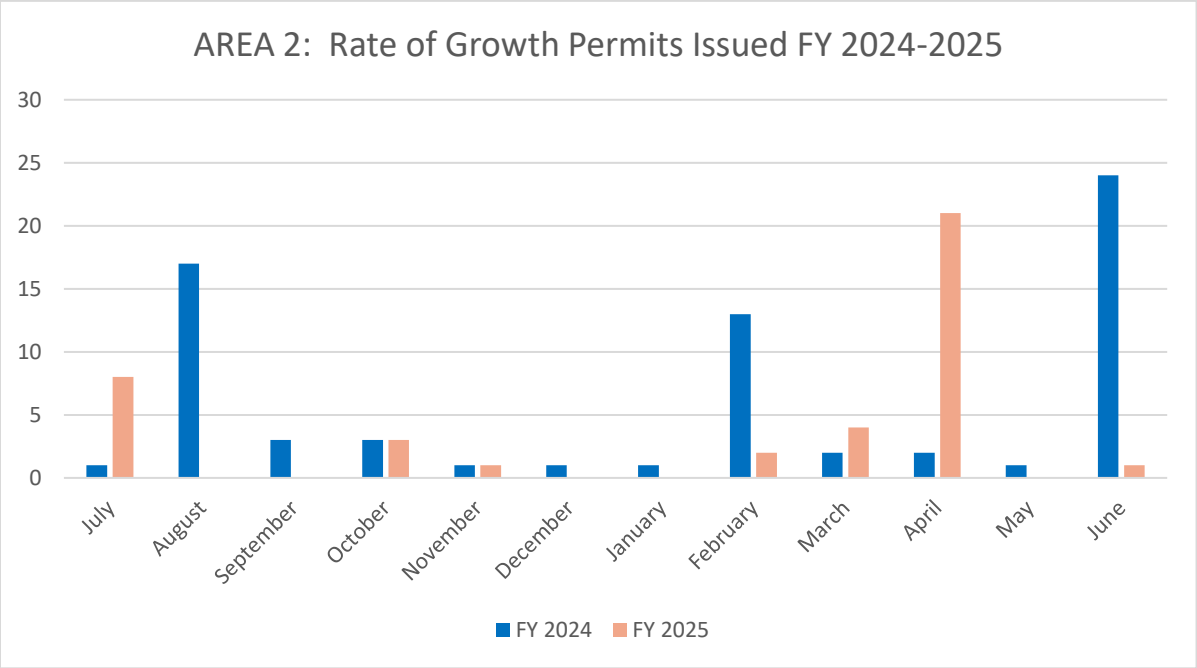
Notes:

Permits were depleted in April of 2024 and 2025. Staff suspects we will run out of rate of growth permits in Area 1 each year. There are ten permits in the queue for the July 1 renewal.

TOWN OF SCARBOROUGH, MAINE

FY 2024-2025 AREA 2: GROWTH AREAS – RESIDENTIAL ZONES

Zoning:	TVC, TVC2, TVC3, TVC4, VR-2, VR-4, B-3, HP, RPO, TND
Issued:	Site Plan or Building Permit
Allocation:	210 every three years; 35% (74) maximum for three or more-bedroom units; 50% (105) Common Scheme
Used 2024:	69 (21 3-Bedroom)
Used 2025:	40 (32 3-Bedroom)
Remaining:	101 (21 3-Bedroom)



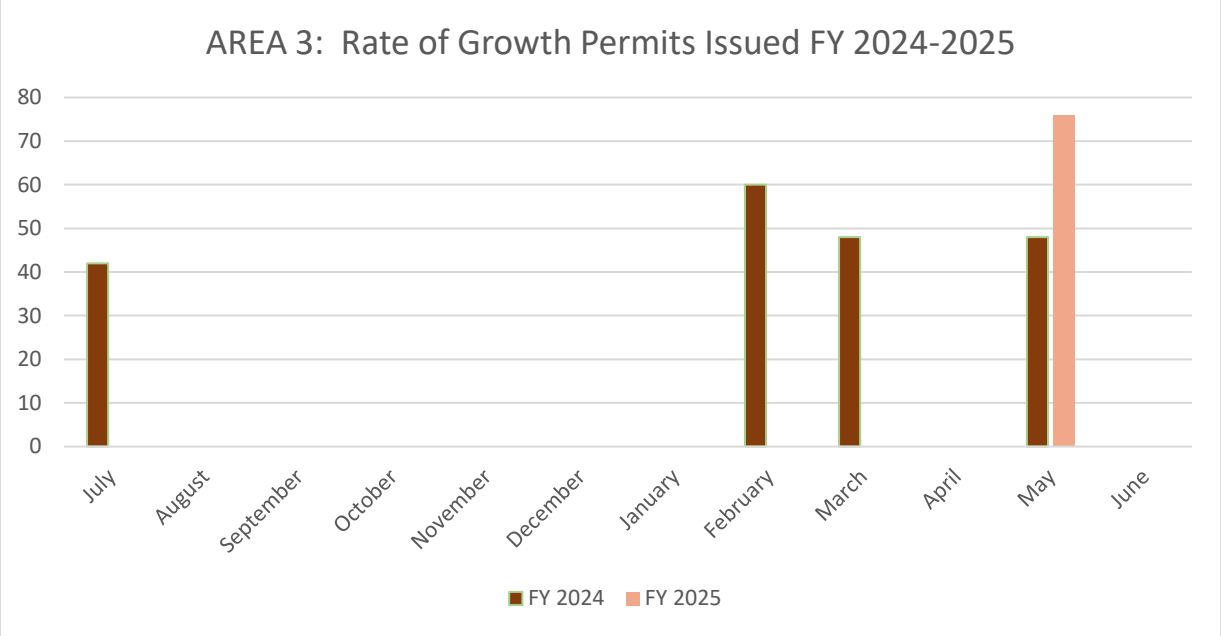
Projects:

- August 2023 – 17 Pinecrest
- February 2024 – 6 Dunstan Crossing; 6 Highland Avenue (Site Plan)
- June 2024 – 24 Mussey Rd Apartments
- July 2025 – Trackside Subdivision
- April 2025 – Dunstan Crossing – (before new building codes take effect)

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FY 2024-2025 AREA 3: GROWTH AREAS – CPD ZONE

Zoning:	CPD
Issued:	Site Plan or Building Permit
Allocation:	400 every three years; 35% (140) maximum for three or more-bedroom units
Used 2024:	198 (10 3-Bedroom)
Used 2025:	76 (No 3-Bedroom)
Remaining:	126 (130 3-Bedroom)



Projects:

- July 2024 - Mixed Use (Lot 1) 42 (6 3-bedroom) Units Site Plan (Prior to Ordinance)
- February 2024 - The Parker (Lot 7) 60 Units Building Permits
- March and May 2024 - Cross Street Condos (Lot 4) 96 (4-3 bedroom) Units Building Permits
- May 2025 - Lot 2 Town Center Mixed Use Residential 76 Units Site Plan

TOWN OF SCARBOROUGH, MAINE

FY 2024-2025 AFFORDABLE & WORKFORCE HOUSING (No Change)

Zoning:	Varies - Town-wide
Issued:	Site Plan or Building Permit
Allocation:	100 every three years; 25% (25) maximum for three or more bedroom units
Used 2024:	51 (No 3-Bedroom)
Used 2025	NA
Remaining:	49 (20 3-Bedroom)

FY 2025 TOWN-WIDE SUMMARY (FY 2025)

June 30, 2025	Allowed	Used	Remain		3 BR Allowed	3 BR Used	3 BR Remain
Area 1	75	50	25		75	50	25
Area 2	210	109	101		74	53	21
Area 3	400	274	126		140	10	130
Affordable/Workforce	100	51	49		20	0	20
Zoning Administrator	5 (15)	8	5		NA	NA	NA
Totals	800	492	**306**		309	113	**196**

FY 2023-2026 CURRENT RATE OF GROWTH BASIS

Calendar Year	Total Units (Includes Affordable)
10 Year Average Through 2022	213
10 Year Plus 5%	**224**
3 Year Allocation	672
Affordable 10% of total	67

Applied to three areas:

- Area 1 – 75;
- Area 2 – 210;
- Area 3 – 400

Totals = 685 + 100 Affordable

TOWN OF SCARBOROUGH, MAINE

FY 2027-2029 RATE OF GROWTH BASIS

State statute requires the number of permits for new residential dwellings allowed under the ordinance be recalculated every 3 years. Permits for new residential dwellings, not including permits for affordable housing, must be set at 105% or more of the mean number of permits issued for new residential dwellings within the municipality during the 10 years immediately prior to the year in which the number is calculated.

In addition, the ordinance sets the number of permits for affordable housing at no less than 10% of the number of permits set. The table below includes the number of building permits issued in the previous 10 years and provides the average for 2024. Two columns show the current method (includes affordable units) and the minimum requirements (excludes affordable permits) for calculating the average. The 10-year average is 237 units with affordable and 210 without.

Calendar Year	Total Units (Includes Affordable)	Total Units (Excludes Affordable) *Minimum Required*
2015	129	126
2016	92	89
2017	262	257
2018	380	339
2019	264	264
2020	214	135
2021	337	298
2022	306	215
2023	133	133
2024	248	248
10 Year Average Through 2024	237	210
10 Year Plus 5%	**248**	**221**
3 Year Allocation	745	663
Affordable 10%	74	66

The table below provides a range of recommendations for how the new allocation might be distributed among the three areas based on the current 10 year average.

	FY 2023-2026 Current		FY 2027-2029 'Maximum'	FY 2027-2029 Minimum
Area 1	**75**		**81**	**73**
Area 2	**210**		**230**	**202**
Area 3	**400**		**434**	**388**
Affordable	**100**		**74**	**66**
3 Year Totals	**685 + 100 = 785**		**745 + 74 = 819**	**663 + 66 = 731**

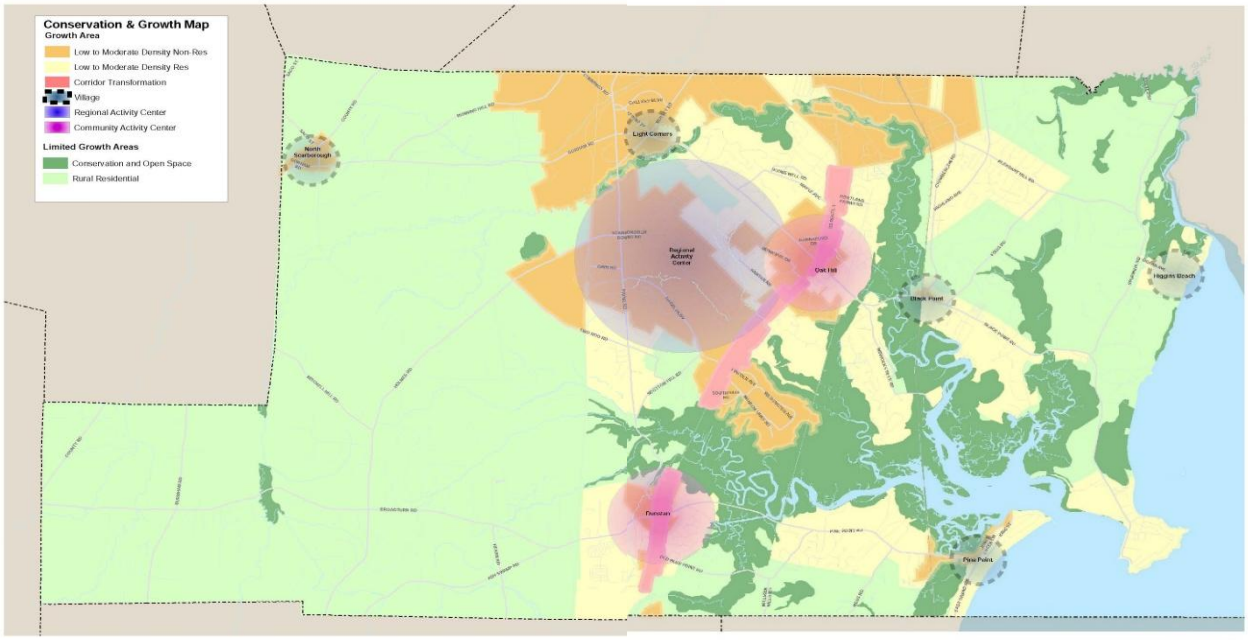
The Rate of Growth Ordinance has been working as intended over the past two years. It provides needed flexibility to areas designated for growth and limits the speed of growth in lower density areas. Issuing the rate of growth permits at the site plan approval phase has also worked well for larger projects that might otherwise take up to 12 months to submit for building permits. Staff intended on recommending maintaining the Rate of Growth Ordinance as is and establishing the new three-year cycle allocation of permits between the minimum and prior method counts shown in the table above.

However, during this legislative cycle LD 1829 An Act to Build Housing for Maine Families and Attract Workers to Maine Businesses by Amending the Laws Governing Housing Density was approved by the Governor on June 20, 2025, and takes effect July 1, 2026.

This act has a number of ramifications for the Town of Scarborough, but the most pressing for this conversation is the removal of the ability to enact a Rate of Growth Ordinance in designated growth areas.

> *Sec. 3. 30-A MRSA §4360, sub-§2, as enacted by PL 2003, c. 127, §1, is amended to read:*
>
> *2. Differential ordinances. A municipality may enact rate of growth ordinances that set different limits on the number of building or development permits that are permitted in designated rural areas ~~and designated growth areas~~. A municipality may not enact rate of growth ordinances that limit residential development in designated growth areas, as defined in section 4301, subsection 6-C, except as authorized by this chapter.*

This means that Scarborough may only enact a Rate of Growth Ordinance for the areas in designated rural areas (shown in green) on the Comprehensive Plan Growth Map below. Areas 2 and 3 are no longer applicable. Area 1 allocation will only apply to Rural Residence and Farming (RF) and Rural Residence and Farming Manufactured Housing (RFM) Districts. The affordable pool is also no longer valid.



Staff recommends continuing to issue rate of growth permits under our current Rate of Growth Ordinance until June 30, 2026, as permitted. Staff will prepare and bring forward a draft amendment to Chapter 413 in the spring of 2026 reflecting the new requirements. Additional amendments may also need to be considered at that time.