

# A Special Area Management Plan For Vernal Pools in Maine



vernal pool **S A M P**

## Implementing the Special Area Management Plan for Vernal Pools in Maine

Note to Reader: This document is divided into two parts. Both are meant for municipalities who are interested in implementing the Special Area Management Plan for Vernal Pools (Maine VP SAMP) in Maine. Part 1 is for those who would like an introduction to the Maine VP SAMP – how it came about, its basic elements, and its possible benefits to your town. Part 2 (pages 7-14) is for those who already know the background and want to dive right into the steps for implementation.

All photos credited to *Of Pools and People*.

### Acknowledgements

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## PART I. BACKGROUND AND INTRODUCTION



### **Developed by the Vernal Pool Stakeholder Working Group, 2009-2017**

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The University of Maine (UMaine) convened the Vernal Pool Stakeholder Working Group in 2009. This group included the Regulatory Division of the New England District of the U.S. Army Corps of Engineers (Corps); U.S. Environmental Protection Agency (EPA); U.S. Fish and Wildlife Service (USFWS), Maine Departments of Inland Fisheries and Wildlife (MDIFW), Environmental Protection (DEP), and Agriculture, Conservation and Forestry; and the Maine towns of Orono and Topsham. Other key non-regulatory stakeholders included representatives of the real estate, development, and land trust communities. This working group dedicated seven years to the development of the Maine Vernal Pool Special Area Management Plan (Maine VP SAMP). The Maine VP SAMP is a voluntary option for mitigating and permitting the anticipated impacts of development on vernal pools and improving the long-term management of vernal pools. We are grateful for financial support from the University of Maine, Senator George J. Mitchell Center for Sustainability Solutions, National Science Foundation, U.S. Environmental Protection Agency, and the generous contributions of time and energy from our stakeholder team.

This document is a summary of the official Maine VP SAMP adopted by the U.S. Army Corps of Engineers as an alternative vernal pool mitigation tool in Maine's General Permit.

Full detailed documentation can be found under the "Management and Regulation" tab on the Of Pools and People website (<https://www.vernalpools.me/samp/>) including a PowerPoint presentation on the Maine VP SAMP, the original and unabbreviated Maine VP SAMP that was posted in the Federal Register, and profiles of the cooperating towns. We also include all published papers on the process of developing the Maine VP SAMP and its relevance to broader conservation efforts outside of Maine.

### **Overview of the Special Area Management Plan**

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The Maine VP SAMP supports municipal growth by allowing development that impacts vernal pools in municipally Designated Development Areas (DDAs) in exchange for permanent conservation of pools and their surrounding habitat in municipally identified Rural Areas. The Designated Devel-

opment Area is a subset of the Comprehensive Plans Growth Area that is zoned for high density or commercial development (see Figure 1).

The Maine VP SAMP is an innovative, voluntary mitigation tool developed through a unique partnership of stakeholders. It is a conservation-based mitigation option that:

- Recognizes that vernal pools surrounded by development are less likely to support and maintain healthy habitat and ecosystem functions over time;
- Recognizes that local involvement in permitting and protection is essential for the long-term viability of this wetland habitat due to its size and ephemeral nature, its occurrence mostly on private property, and its sensitivity to surrounding land uses;
- Supports local goals for growth;

### What is a Special Area Management Plan (SAMP)

The Coastal Zone Management Act of 1980 (16 USC 1453 [17]) defines a SAMP as a comprehensive plan regulating natural resource protection and reasonable economic growth that contains a detailed and comprehensive statement of policies, standards, and mechanisms to implement a SAMP. SAMPs for coastal resources exist in other New England states and California.

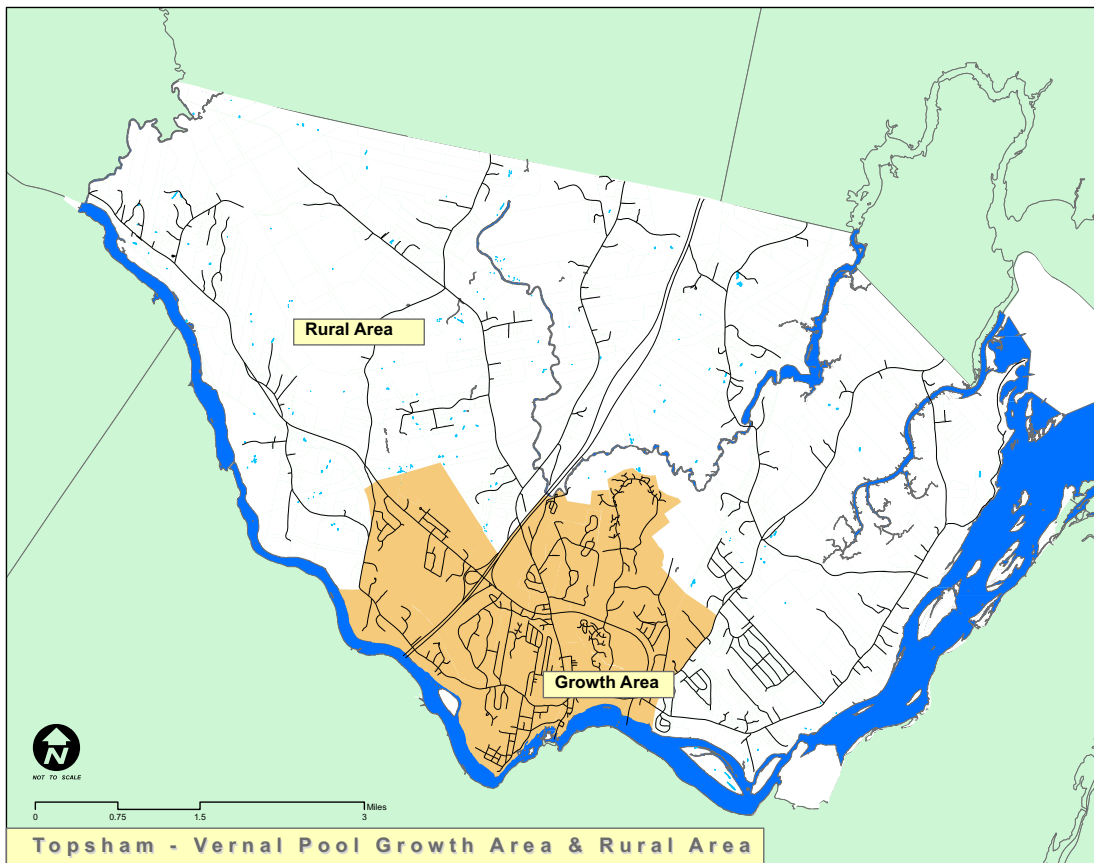


Figure 1: Topsham, ME - Map showing Vernal Pool Growth Area and Rural Area

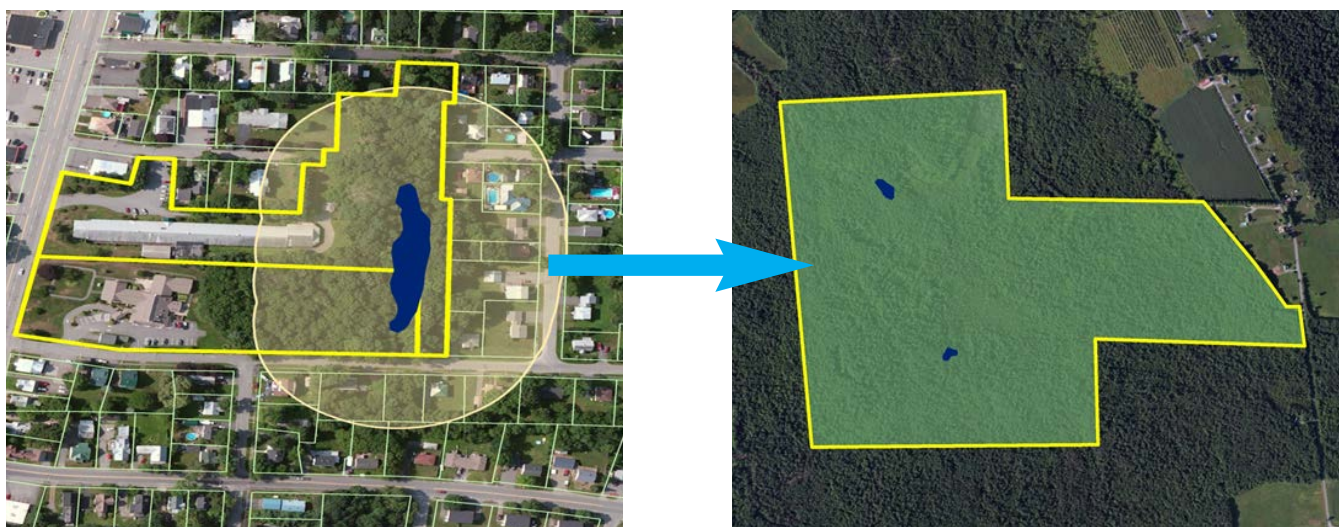
Online map showing vernal pool overlay district (DDA): <https://frontierspatial.com/topsham/#layersselector>

- Provides a market-driven, in lieu fee mechanism that is sensitive to local economic conditions and thus is appealing to the real estate and development communities; and
- Provides long-term conservation and monitoring that is best accomplished by non-profit organizations focused on those tasks.

Through the use of the Maine VP SAMP, impacts to any vernal pool in municipally Designated Development Areas are compensated for by conservation of vernal pools and surrounding terrestrial post-breeding amphibian habitat in municipally identified Rural Areas.

### Improving Mitigation Options for Impacts to Vernal Pools

The Maine VP SAMP is administered at the municipal level through state and Federal rules that allow the Maine Department of Environmental Protection (DEP) to delegate permitting authority through the Maine Natural Resources Protection Act. An applicant within a Designated Development Area who chooses to use the Maine VP SAMP pays the town a mitigation fee based on current, local market conditions. The municipality maintains an agreement with a third-party land conservation organization who uses the fee to remunerate landowners in the designated Rural Area for placing a conservation easement on high priority vernal pools. The conservation goal is the protection of two pools and 70 acres of associated terrestrial post-breeding amphibian habitat protected for each pool impacted (See Figure 2). Pool conservation is driven by the Maine Vernal Pool Conservation Criteria (posted on <https://www.vernalpools.me/samp/>) that support protection of high functioning vernal pools, pool complexes and terrestrial post-breeding amphibian habitat embedded in a relatively undeveloped landscape.



*Figure 2: Trading one pool surrounded by development for two with forested adjacent habitat*

The Maine VP SAMP increases the regulatory mitigation options available for vernal pool protection using an approach that balances aquatic resource protection and economic development. The goal of the Maine VP SAMP is to address both of these issues directly.

The Maine VP SAMP was developed:

- To establish a municipally based permitting framework acknowledging that, although vernal pools embedded in a developed landscape within municipally Designated Development Areas may persist over time, their ability to support wildlife may be severely compromised;
- To develop a local in lieu fee mechanism that funnels money from mitigation fees back to the town and its citizens;
- To support development in Designated Development Areas;
- To increase the pace and quality of vernal pool protection in Rural Areas by preserving high functioning vernal pools and associated terrestrial post-breeding amphibian habitat within a relatively undeveloped landscape at the level of two pools and 70 acres of terrestrial post-breeding amphibian habitat conserved for each pool impacted.

The background leading to development of the Maine VP SAMP can be found in Appendix 4 of the official Maine VP SAMP document available at <https://www.vernalpools.me/samp/>.

**PLEASE NOTE:** Use of the Maine VP SAMP is limited to vernal pool impacts. The applicant is still responsible for receiving all other necessary federal, state, and local permits. If a single and complete project includes impacts to vernal pools and other wetland aquatic resources, the Category 1 Self Verification Form will not suffice unless the non-vernal pool impact qualifies on its own for Category 1 Self Verification. However, the Maine VP SAMP may still be used as mitigation for the vernal pool impacts on Maine GP Category 2 projects and Individual Permit projects.

## PART II. ADOPTION AND IMPLEMENTATION OF THE MAINE VP SAMP

Thumbnail sketch for adopting the Maine VP SAMP: (See Figure 3)

### Municipal responsibility:

- Identify potential vernal pools (pre-identified or potential vernal pools identified remotely) in the designated Rural Areas and identify high functioning pools, pool complexes and adjacent terrestrial habitat suitable for conservation through this mechanism using the Maine Vernal Pool Conservation Criteria (VPCC) available on the *Of Pools and People* website;
- Form a partnership with a non-profit land conservation entity;
- Apply for and receive Partial Delegated Authority from the Maine Department of Environmental Protection for vernal pool permitting in Designated Development Areas (DDAs);
- Inform applicants of the availability of the Maine VP SAMP, a voluntary alternate mitigation mechanism for impacts to vernal pools in DDAs; and
- Perform an annual review of permitting and mitigation completed through use of the Maine VP SAMP.

### Third Party land conservation organization responsibility:

- Develop relationships with willing landowners of high value vernal pool conservation opportunities;
- Undertake conservation in perpetuity of high value vernal pools and adjacent terrestrial habitat through conservation easement or fee purchase;
- Undertake annual monitoring of conserved areas to ensure that easement conditions are being met and management plans implemented appropriately;
- Undertake biological monitoring of conserved vernal pools every five years for the first ten years after the vernal pools are placed in conservation;
- Provide data from the annual monitoring and biological monitoring to the team reviewing the Maine VP SAMP.

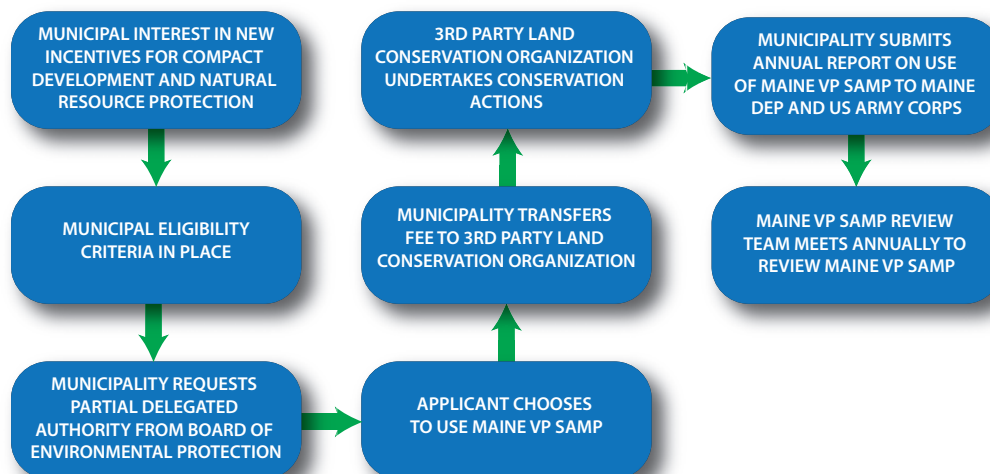


Figure 3: Steps for adopting the Maine VP SAMP in your town

To establish the Maine VP SAMP as an alternate mitigation mechanism for impacts to vernal pools, a municipality must complete Steps 1-8 as described below; these steps lay the legal framework for a municipality to offer use of the Maine VP SAMP for development(s) within its Designated Development Area (DDA). Steps 9-12 are related to actual implementation of the Maine VP SAMP.



### **Groundwork to be able to use the Maine VP SAMP:**

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#### **1. Inventory vernal pools**

To implement the Maine VP SAMP, a town needs to have at least an initial inventory of the locations and quality of vernal pools – town-wide if possible but at least in the rural sections of town. Over ten Maine towns have had potential vernal pools identified remotely through aerial photography with a subset of those pools field assessed through volunteer training programs (see Morgan and Calhoun for more information on best remote methods and volunteer training programs <https://www.vernalpools.me/select-publications/>).

The Maine VP SAMP Conservation Criteria (Appendix 2a of the official Maine VP SAMP and available as a pdf on the website) should be applied to all known pools in the municipality's Rural Area to create a baseline vernal pool conservation suitability assessment. Through this process the municipality/third party will develop a list of target conservation pools and conservation actions in the Rural Area. The targets for conservation actions will be vernal pools and surrounding amphibian post-breeding habitat found embedded within relatively unfragmented forest tracts within the municipality's Rural Area. Each candidate conservation target must be field-checked for suitability using the Maine VP SAMP Site Checklist (Appendix 2b of the Maine VP SAMP or on the *Of Pools and People* website).

Because conservation opportunities may arise that were not part of the town's initial conservation suitability assessment of vernal pools in the Rural Area and because mapping techniques often miss vernal pools due to their small size, ephemeral nature, and location under forest canopy, the town and their identified Third party (Step 4) may also identify vernal pool conservation options by applying the Maine VP SAMP Conservation Criteria (VP CC) to pools not included in the municipality's initial process of assessing the conservation suitability of pools in the Rural Area.

#### **2. Adopt a Consistent Comprehensive Plan and Land Use Ordinance**

A municipality must adopt a comprehensive plan and land use ordinance that are found to be consistent with Maine's Growth Management Act by the Municipal Planning and Assistance Program in the Department of Agriculture, Forestry and Conservation. The Maine Land Use Planning and Regulation Act (30-A M.R.S.A. Chapter 6-A§ 4312) along with Chapter 208: Comprehensive Plan Review Criteria Rule identify the required elements of a comprehensive plan. Among other things, the plan must include clearly identified Growth Area(s) (to which the town intends to direct most growth and related capital improvements) and expansive Rural Area(s) to conserve natural and economic resources.\*



Following adoption of the Comprehensive Plan, the municipality needs to adopt a new or amend an existing land use or zoning ordinance that takes meaningful steps toward implementing the plan.\*\*

Public process and participation are at the core of the comprehensive planning and land use ordinance development processes. These two land use planning tools provide an indication and measure of a municipality's ability to take part as a full partner in the Maine VP SAMP in that the municipality has developed a vision, identified Growth and Rural areas, inventoried its resources, identified those of significance, and developed policies and implementation strategies to insure the protection of those resources.

### 3. Identify Designated Development Areas

A Designated Development Area is a subset of the Comprehensive Plan's Growth Area(s). Not all of the Growth Area is likely to be zoned for high density or commercial development; and there may be areas within the Growth Area that remain undeveloped or lightly developed for the lifespan of the comprehensive plan (twelve years at the writing of this document). The Maine VP SAMP can only be used to mitigate impacts to vernal pools on parcels that are explicitly identified by the municipality within the parts of the Growth Area that meet specific criteria. The Maine VP SAMP refers to these areas as Designated Development Areas (DDAs). An area within the Growth Area may only be designated as a DDA if the area is zoned for moderate to high density development, will be infill, is adjacent to existing development within the Growth Area, or is served by municipal sewer and water, adjacent to existing development and zoned for moderate or high-density development. The municipality will seek input from the MDIFW on the location of DDAs. A map showing the DDAs will be submitted to the Corps for approval before the municipality requests Partial Delegated Authority from Maine DEP (see step 7 below). A map showing the DDAs will be part of the municipality's submittal for Partial Delegated Authority (See Figure 1).

### 4. Identify a Third Party to carry out steps a-e

The municipality enters into an agreement with a non-profit land conservation organization as the third-party entity that will hold mitigation funds and undertake vernal pool conservation projects. These projects will be based on the results of the application of the Maine VP SAMP Conservation Criteria (VP CC) (see [website materials](#)) and the baseline vernal pool conservation suitability assessment. The agreement with the Third Party will spell out roles and responsibilities, will direct that funds be used for vernal pool conservation projects within three years of receipt, and will allow the Third Party to use up to 10% of the fees collected to cover their project implementa-

#### Tips

**\*Tip:** If the Comprehensive Plan includes a goal of conserving vernal pools in rural areas and mitigating impacts on vernal pools in growth areas, more legitimacy will be lent to the SAMP when it comes time to implement it but note that this is not a requirement.

**\*\*Tip:** This amendment may include, by way of example only, adopting regulations that allow higher density development and a mix of land uses in the Growth Areas and limit development with the Rural Area to low densities and uses consistent within needs for rural land (e.g. arming, forestry, outdoor recreation, wildlife preservation, water supplies).

tion, administrative and monitoring costs. This agreement will be based on the model Third Party agreement ([available on the website](#)) and will be submitted to the Board of Environmental Protection and the Corps for approval if any changes are made to the model to ensure compliance with the Mitigation Rule. Each project will be conserved in perpetuity and will include conditions that prohibit any additional commercial or residential development including roads. Forestry activities will be low impact and follow the Forestry Habitat Management Guidelines for Vernal Pool Wildlife (see <https://www.vernalpools.me/samp/>).



**a. *Develop an agreement with municipality***

The Third Party enters into a signed agreement with the municipality to receive funds to undertake vernal pool conservation projects. These projects will be based on the results of the application of the Maine Vernal Pool Conservation Criteria (Appendix 2a). The agreement with the Municipality will spell out roles and responsibilities, will direct that funds be used for vernal pool conservation projects within three years of receipt, and will allow the Third Party to collect up to 10% of the fees to cover their project implementation, administrative and monitoring costs.

**b. *Manage mitigation funds***

The Third Party accepts funds collected by the Municipality for vernal pools impacts. The Third Party maintains a separate account for these funds and uses them only for conservation based on the Maine VP CC (Appendix 2a).

**c. *Identify conservation pools (from data from Step 1) and conservation actions***

The Third Party will develop a portfolio of potential vernal pool mitigation projects. This will be accomplished through use of the Municipal vernal pool suitability for conservation assessment and application of the Maine VP CC to conservation opportunities not part of the Municipal vernal pool suitability for conservation assessment. As part of the process to develop vernal pool conservation projects the Third Party will conduct a vernal pool site visit to ensure that the Maine VP CC are still being met. The Third Party will provide notification of and the option to participate in the site visit to MDIFW and Maine DEP. Working with willing land-owners, the Third Party purchases conservation targets via fee or easement to conserve pools and adjacent terrestrial post-breeding amphibian habitat to meet the goal of conservation of two pools and 70 acres of surrounding habitat for each pool impacted in the DDA.

It is anticipated that vernal pool conservation opportunities may arise in adjacent towns or other areas within the Third Party's 'sphere of influence.' In the order of preference, the in lieu fee funds collected for impacts to vernal pools in the DDAs shall be used first within the Rural Area of the town within which the impacts occurred, secondly in the Rural Areas of adjacent towns that have consistent comprehensive plans and land use ordinances (or other planning mechanisms), and thirdly within the geographic area of interest of the Third Party. If the funds

are not used for vernal pool conservation within three years of their collection and no active projects for vernal pool conservation are underway, the funds shall be transferred to the Maine Natural Resources Conservation Program (MNRCP), the state-wide in lieu fee program run by the Maine DEP and used for vernal pool conservation within the biophysical region in which the impacts occurred. The transfer of funds to the MNRCP will allow the funds to be pooled with other funds mitigating vernal pool impacts and provide for a larger geography within which appropriate mitigation can be found. More information on the MNRCP can be found on the Maine DEP's website ([www.maine.gov/dep](http://www.maine.gov/dep)).



The Third Party will also be responsible for making a recommendation to the Town on permittee responsible mitigation (PRM) project proposals in the instance an applicant chooses to undertake development of the vernal pools conservation project instead of paying a fee. The Third Party will apply the Maine VP CC to the proposed conservation project and visit the site in order to complete the Maine VP SAMP Site Checklist (Appendices 2a and 2b in the Maine VP SAMP and [available on the website](#)) before issuing its recommendation to ensure that the project provides the functions and values of a high value vernal pools conservation project. The Third Party will provide notification of and the option to participate in the site visit to MDIFW and Maine DEP.

**d. Monitor vernal pool conservation projects**

The Third Party will be responsible for annual monitoring of all vernal pool conservation projects undertaken with funds collected through the Maine VP SAMP. Annual monitoring will include visual assessment of the condition of the pool and surrounding landscape along with documentation that all easement conditions are being met. The Maine VP SAMP Site Checklist (Appendix 2b) or other substantially similar form will be used. In the event that easement conditions are not being met, the Third Party will work with the landowner to rectify the situation. At the fifth and tenth years from the date the conservation project is completed, the Third Party will undertake biological monitoring of the conserved vernal pools during the spring breeding season to count egg mass numbers and species.

All monitoring visits will be documented with photos and a report will be produced that describes the condition of the pool, surrounding landscape, numbers and species of egg masses when biological monitoring occurs and other relevant factors. In the year that biological monitoring takes place, the documentation of that monitoring will be included in the annual report to the town.

**e. Maintain records on conservation projects and participate in annual reviews**

The Third Party maintains records of funds received through the Maine VP SAMP, funds expended, location of conservation actions taken with the mitigation funds, and annual monitoring visits. The Third Party will maintain a database to account for location of projects that

generated the mitigation funds and locations and description of vernal pool conservation projects undertaken with the funds. The Third Party will supply an annual report to the Town with an accounting of funds received, funds expended, acres impacted and conserved, and monitoring documentation collected during the year under review.



#### **5. Adopt Maine VP SAMP Ordinance or Modify an Existing Ordinance or mechanism for planning**

Following the development and adoption of a consistent comprehensive plan, zoning ordinance, and identification of DDAs, a community must adopt ordinance language that codifies the DDAs, establishes the municipality's ability to become a signatory to the Maine VP SAMP, references the fee mechanism (and how the fee is determined, which may include setting a minimum fee requirement), fee collection by the municipality, the process of transfer of the fee to a third Party to undertake the vernal pool conservation, and submission of an annual report to the Maine DEP and U.S. Army Corps of Engineers. This can be done through an independent ordinance or through amending the existing zoning or land use ordinance. Model language for use in existing ordinances through the creation of a "vernal pools overlay district" is found at <https://www.vernalpools.me/samp/>.

#### **6. Adopt a Fee Determination**

The municipality will assess a fee equal to 40% of the difference between:

- the appraised value of the property as currently impacted by the existing vernal pool(s) with a 250' buffer that can be developed no more than 25%, and
- the appraised value under the hypothetical condition that the property is no longer impacted by the vernal pool(s).

The appraisal will be completed using the Uniform Standards of Professional Appraisal Practice by a Certified General Appraiser licensed in the State of Maine. The municipality shall collect the fee each time the Maine VP SAMP is implemented in order to accomplish the goal of vernal pool conservation at the level of two pools plus 70 acres of terrestrial amphibian post-breeding habitat for each impacted pool. A municipality may opt to adopt a minimum fee in its ordinance if the programmatic conservation goals cannot be met with the differential fee mechanism.

#### **7. Apply to the Maine Board of Environmental Protection for Delegated Authority under 38MRSA Chapter 3 Section 480-F**

With items 1-6 in hand, the municipality submits an application to the Board of Environmental Protection and receives Partial Delegated Authority under 38 MRSA §480-F to cover the issuance of NRPA vernal pool permits within the identified DDAs. The DDAs for use in the Maine VP SAMP will only include infill areas, areas adjacent to existing development, or areas served by municipal water and sewer adjacent to development within areas zoned for moderate or high-density development.

The request for Partial Delegated Authority will include the following elements:

- A map of the municipality's Growth and Rural Areas as defined in its Comprehensive plan;
- A map showing the DDAs;
- The ordinance language used to facilitate implementation of the Maine VP SAMP including date of adoption by the Municipality;
- A narrative description of the Municipality's financial, technical and legal resources to adequately review the permit applications, accept and transfer the fee, and enforce the permit requirements;
- A copy of the letter from the Municipal Planning Assistance Program, Maine Department of Agriculture, Conservation and Forestry (or Maine State Planning Office) showing the date the comprehensive plan was found consistent with the Maine Growth Management Act;
- And, a copy of the contract between the municipality and the Third-Party land conservation organization.



#### **8. Sign the Maine VP SAMP along with the Corps and the Maine DEP**

#### **When an applicant chooses to use the Maine VP SAMP:**

#### **9. Collect the Maine VP SAMP Fee and Issue Maine NRPA Vernal Pool Permit**

The Municipality receives the Maine VP SAMP fee from the applicant based on the appraisal difference method or based on the minimum fee set in ordinance. The appraisals must be done under the Uniformed Standards of Professional Appraisal Practice by a Certified General Appraiser licensed in the State of Maine. The Municipality records the fee along with the location of the impacted vernal pool(s). The Municipality issues the NRPA Vernal Pools permit to the applicant and forwards the permit to the Maine DEP.

#### **10. Transfer Fee to 3rd party**

Thirty days after the permit is sent to DEP, the Municipality will transfer the Maine VP SAMP fee to the third party.

#### **11. The Third Party will select the Candidate Vernal Pools for Conservation (Review Step 1 results)**

The third party selects pool(s) as described in 4c. Final decisions on the suitability of projects for conservation will be made by the Third Party in consultation with wetland or amphibian ecologists or MDIFW (as their resources allow).

#### **12. Annual Reporting**

The Municipality will provide an annual report to the Corps and Maine DEP. This report will incorporate the annual reporting submitted by the 3rd party and include:

- An accounting of the number of times that the Maine VP SAMP has been used;

- The location of pools within the DDAs that were impacted and the corresponding conservation in the Rural Area;
- A balance sheet showing the amount of funds collected by project and the amount expended by project;
- Annual monitoring reports on the condition of the conservation pools and surrounding landscape along with documentation that all easement conditions are being met.



## PART III. RESPONSIBILITIES OF STATE AND FEDERAL AGENCIES AND APPLICANTS

Under the Maine VP SAMP, other agencies at other levels of government also have responsibilities.

### Federal Level

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1. Review and approve the DDA location prior to submittal of the municipal request for Partial Delegated Authority.
2. Determine permit category status  
The Corps will make a determination that use of the Maine VP SAMP for the project meets the conditions of Category 1 projects within 10 days of receiving the Category 1 Self-Verification form from the applicant.
3. Participate in Maine VP SAMP Review Team  
The Corps participates as a member of the Maine VP SAMP Review Team to approve the baseline municipal vernal pool conservation suitability assessment. They are not involved on case-by-case review of conservation actions.
4. Participate in the annual review of use of the Maine VP SAMP as a member of the Maine VP SAMP Review Team.

#### Definition of Vernal Pools

The Maine VP SAMP uses the definition of vernal pool in the Corp's Maine General Permit (GP) issued in 2015:

Vernal pools (VPs): For the purposes of this GP, VPs are depressional wetland basins that typically go dry in most years and may contain inlets or outlets, typically of intermittent flow. Vernal pools range in both size and depth depending upon landscape position and parent material(s). Pools usually support one or more of the following obligate indicator species: wood frog, spotted salamander, blue-spotted salamander, marbled salamander, Jefferson's salamander and fairy shrimp. However, they should preclude sustainable populations of predatory fish.

### State Level

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#### Maine Department of Environmental Protection

1. Review and accept the municipally identified DDA prior to the municipality's request for Partial Delegated Authority
2. Confer or reject Partial Delegated Authority  
Maine DEP reviews the municipal request for Partial Delegated Authority to issue NRPA Vernal Pool permits in DDAs. Upon finding that the municipality meets the criteria in 38 MRSA §480-F, the Maine Board of Environmental Protection issues a finding that the Municipality has Partial Delegated Authority for vernal pool permits.
3. Review permits  
Maine DEP reviews municipal vernal pool permits within 30 days pursuant to 38 MRSA §480-F. If the department does not act within 30 days of its receipt of the permit by the municipality, this constitutes its approval and the permit is effective as issued, except that within this 30-day period the department may extend the time for its review an additional 30 days.

4. Maine VP SAMP annual review

Maine DEP takes part in the annual review of Maine VP SAMP as a member of the Maine VP SAMP Review Team.

**Maine Department of Inland Fisheries and Wildlife**

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1. Maine DIFW supports, as their time and resources allow, municipal application of Maine VP Conservation Criteria to vernal pools in the Rural Area to identify high value conservation targets (i.e., vernal pools and surrounding terrestrial habitat).

2. Review and comment on Designated Development Areas

Maine DIFW provides support, as their time and resources allow, to the Municipality in identification of DDAs based on the criteria found in the Maine VP SAMP before submission of materials to Maine DEP for Partial Delegated Review.

3. Participate in Annual Review

Maine DIFW takes part in the annual review of the Maine VP SAMP as a member of the Maine VP SAMP Review Team.



**Applicant** (for use of the Maine VP SAMP on a development project)

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1. Fill out municipal vernal pools permit application, appraisal, fee

The applicant submits a vernal pool permit application to the town for a project located in a DDA. Permit materials shall include: 1) project plans that delineate or show the approximate location of potential vernal pools to meet Condition 23(f) of the Maine General Permit; 2) an appraisal of the property that includes the (i) as-is value of the parcel as currently impacted by the existing vernal pool(s) surrounded by a 250' buffer that can be no more than 25% developed and (ii) the as-is value under the hypothetical condition that the property is no longer impacted by the vernal pool(s) and the 250' buffer. The applicant pays for the appraisal as well as a peer review of said appraisal should a peer review be required by the town. The applicant pays the Maine VP SAMP fee determined by the municipality's ordinance to the municipality.

2. Submit a US Army Corps of Engineers Category 1 Self-Verification Form

The applicant submits a Corps Category 1 Self-Verification Form and all required attachments and supporting material to the Corps as notification of use of the Maine VP SAMP, assuming vernal pool impacts are the only impacts, and there are no other impacts which would trigger the need for a Category 2 or Individual Permit. The Corps will make the final determination of Category 1 or Category 2 eligibility within 10 days of receiving the Category 1 Self-Verification Form and will notify applicants accordingly. If no determination is received within the 10-day period, the applicant may proceed under the Category 1 Self-Verification Form.



If the project being proposed includes impacts to other aquatic resources, all of the impacts must be considered as part of a single and complete project. If the impacts to other aquatic habitat(s) do not qualify for Category 1 Self-Verification, the applicant will need to determine if the project proceeds under the Corps Category 2 or Individual Permit. However, the Maine VP SAMP may still be used to mitigate for vernal pool impacts in any case.

3. Submit all other state, federal and local permits.
4. Option: Undertake a permittee-responsible mitigation (PRM)

The permittee may undertake the vernal pool(s) conservation triggered by her use of the Maine VP SAMP in place of paying the in-lieu fee to the municipality. The applicant pays for peer review of the proposed conservation project and submits the peer review to the Town and to the Third Party. The applicant receives confirmation from the Third Party that the Third Party will accept the responsibility of managing the conservation project in perpetuity. Before the Municipality issues the Vernal Pool permit, the permittee's mitigation project must be completed, peer reviewed for conservation suitability, and accepted by the Third Party. Permittee responsible mitigation must meet all the same conservation suitability criteria and receive the same level of conservation protection as vernal pools conservation undertaken by the Third Party through the Maine VP SAMP including protection in perpetuity.



## OF POOLS AND PEOPLE WEBSITE

(<https://www.vernalpools.me/samp/>)

From the 'Of Pools and People' home page, click on 'Management and Regulation' and then on 'SAMP'.

The following documents are available on the website:

1. The original Maine Vernal Pools Special Area Plan complete with appendices.
2. Templates for:
  - a. vernal pool ordinance or vernal pool overlay zone;
  - b. third party agreement;
  - c. conservation easement;
  - d. the Vernal Pool Conservation Criteria for determining eligible pools; and
  - e. forms for vernal pool documentation
3. A step-by-step guide to applying for Partial Delegated Authority and sample applications
4. Information on cooperating towns and examples of their documents
5. Publications on the Maine Vernal Pool SAMP and on mapping vernal pools using town residents
6. Vernal Pool Habitat Management Guidelines for Forestry (PDF) and PowerPoint presentation on the HMGs
7. PowerPoint presentation on the Maine Vernal Pool SAMP
8. Publications and manuals on "how to" map and assess vernal pools

