







Why Try Mediation?

-  You have a chance to present your ideas in an informal, private setting, with the support and advice of your lawyer if you have one. It is a time to be heard and to listen to others.
-  You have an opportunity to control the outcome of your dispute.
-  The mediator is impartial and is trained to help you and the other party discuss your dispute so that you can try to work things out yourselves.
-  You may discover choices you did not know you had.
-  Mediation may help you reach an agreement that will let you get on with your life and possibly keep you out of court in the future.
-  You make the decisions in mediation, and all agreements are voluntary. You are not required to reach an agreement.
-  By trying mediation, you do not give up your right to file or pursue a lawsuit within the time allowed by law.



Land Use Mediation



State of Maine Judicial Branch

Office of Court ADR

Court Alternative Dispute Resolution Service (CADRES)

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www.courts.maine.gov/programs/adr/index

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Background and Purpose

In 1995, the Maine Legislature enacted a law, 5 M.R.S. § 3341, creating a land use mediation program for specific types of disputes. Its purpose is to provide eligible private landowners with a “prompt, independent, inexpensive and local forum for mediation of governmental land use actions as an alternative to court action.”

The Office of Court ADR of the Maine Administrative Office of the Courts has selected a group of qualified, experienced mediators from all around the State to mediate land use disputes.



How Much Does It Cost?




The application fee for land use mediation is \$175.00 for up to four (4) hours of mediation. There is no additional court-filing fee. You do not have to start a court case to participate in mediation under this law.

After the initial fee is paid, the cost of further mediation may be shared by the other mediation participants.

The landowner also pays the cost of sending the notice about the mediation to the people who will participate.

Who Can Mediate?

This particular type of land use mediation is for:



-  Private landowners
-  Municipalities
-  State agencies and boards

Mediation must be initiated by a private landowner.

To be eligible for mediation, the landowner must have suffered “significant harm as a result of a governmental action regulating land use.”









The landowner must also request mediation within the time allowed for filing for judicial review of the governmental action.

The landowner must have either:

-  Sought and failed to obtain a permit, variance or special exception from a municipality, and have pursued all reasonable avenues of administrative review, or
-  Sought and failed to obtain approval for a land use from a state agency and have sought judicial review of the action or failure or refusal to act.

Municipalities may not be required to participate in mediation if they choose not to do so. State entities must participate.

How Does It Work?

-  The landowner applies for mediation and pays the fee at the Superior Court in the county where the land is located.
-  The Clerk of Court sends the landowner’s application for mediation to the Office of Court ADR.
-  The Director contacts the landowner and the governmental entity to help them select a mediator from the Land Use/Environmental Mediation Roster and decide who will participate in mediation.
-  The mediator schedules the time and place for mediation with the parties, and the mediator or the Office of Court ADR sends out the notice of mediation.
-  If an agreement is reached, it must be put in writing and signed. A copy of the mediated agreement is later submitted to the court with the mediator’s report.
-  If no agreement is reached, the landowner may decide what other action to take, including litigation or other steps.
-  Generally, what you say in mediation cannot be used as evidence in court in the same case, and mediators cannot testify (with some exceptions), according to the Maine Rules of Evidence. The land use mediation law calls for the written agreement to be included in the court’s file.
-  Even if you try mediating first, litigation may still be an option. Applying for mediation may extend the time for filing a lawsuit about your land use dispute.