

## INFORMATION ABOUT DOG AS PUBLIC NUISANCE COMPLAINTS

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state courts. The information provided is not intended for legal advice but only as a general guide to a civil court process.

**If you decide to represent yourself, you will need to do additional research to prepare.**

**When you represent yourself, you must abide by the following:**

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
  - North Dakota Rules of Civil Procedure;
  - North Dakota Rules of Court;
  - North Dakota Rules of Evidence;
  - North Dakota Administrative Rules and Orders;
  - Any local court rules.

Links to the laws, case law, and court rules can be found at [www.ndcourts.gov](http://www.ndcourts.gov).

A glossary with definitions of legal terms is available at [www.ndcourts.gov](http://www.ndcourts.gov) by clicking on the “Self Help” link.

**When you represent yourself, you are held to same requirements and responsibilities as a lawyer, even if you don’t understand the rules or procedures.** If you are unsure if this information suits your circumstances, consult a lawyer.

***This information is not a complete statement of the law. This covers basic information about dog as a public nuisance complaints. The Center is not responsible for any consequences that may result from the information provided. The information cannot replace the advice of competent legal counsel licensed in the state of North Dakota. Use at your own risk.***

North Dakota laws related to dogs as public nuisances are found in [North Dakota Century Code Chapter 42-03: Dogs As Public Nuisance](#).

The North Dakota Century Code is available online at [www.legis.nd.gov/general-information/north-dakota-century-code](http://www.legis.nd.gov/general-information/north-dakota-century-code).

Laws constantly change through legislation, administrative rulings and court decisions. To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and court decisions.

Notes of court decisions related to North Dakota law can be found in the print editions of the North Dakota Century Code. Print editions of the North Dakota Century Code are found in many North Dakota public and academic libraries.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws apply to your situation.

**This information applies to the following situation:**

1. You want to file a complaint about a dog that is a public nuisance; **and**
2. You will file your complaint in a North Dakota State District Court.

**Review [Section 42-03-01](#) of North Dakota Century Code Chapter 42-03 and decide if the dog meets the requirements for a public nuisance:**

A dog is a public nuisance when that dog “habitually molests a person traveling peaceably on the public road or street.”

Please note that the location of the incident(s) **must** be a public road or street.

**Complete and file the “Dog as Public Nuisance Complaint”:**

If you decide the circumstances meet the requirements to file a dog as public nuisance complaint:

1. Complete the attached “Dog as Public Nuisance Complaint.” The complaint must include the following information:
  - Description of the dog.
  - Name of the dog, if known.
    - If the name of the dog is not known, state this on the complaint.
  - Name and address of the dog’s owner, if known.
    - If the name of the dog’s owner is not known, state this on the complaint.
  - Location of the incident(s).
    - The location must be a public road or street.
  - Date(s) and circumstances of the incident(s) causing the complaint.
2. Sign the completed “Dog as Public Nuisance Complaint” in the presence of a notary public or clerk of court.

3. File the completed, signed and notarized "Dog as Public Nuisance Complaint" with the clerk of district court.
4. Pay the \$10.00 filing fee.

### **The complaint will be filed as a civil case in the North Dakota State District Court:**

The completed complaint will be filed as a civil case in the North Dakota State District Court. The Court will send a copy of the complaint to the dog's owner together with a notice that a complaint has been received and instructing the owner to take the necessary action to prevent the dog from creating a nuisance.

You will also receive a copy of the complaint and notice.

The Court will take no further enforcement action until and unless a second complaint is received concerning the dog's activities.

### **If the dog continues to constitute a public nuisance:**

If the dog continues to constitute a public nuisance after the dog's owner has received the notice that a complaint was filed, you must complete and file a second "Dog as Public Nuisance Complaint" with the clerk of district court.

There is no additional fee for filing the second complaint.

### **After you file the second "Dog as Public Nuisance Complaint":**

Upon receipt of a second "Dog as Public Nuisance Complaint," the District Court will schedule a hearing and issue a summons to the dog's owner requiring the owner to appear at the hearing.

You must also appear at the hearing and present evidence in support of the complaint.

The district judge will hear evidence in the case. If the judge finds that the dog is a public nuisance, the judge will order any peace officer to kill and bury the dog.

### **Costs:**

The costs incurred in pursuing this matter will be paid by you, but if the dog is adjudged a nuisance, and the owner is known, judgment will be entered against the owner for the costs.

**CHAPTER 42-03  
DOGS AS PUBLIC NUISANCE**

**42-03-01. When dogs are a public nuisance.**

Any dog that habitually molests a person traveling peaceably on the public road or street is a public nuisance. Upon written complaint to a district or municipal judge describing the dog, giving the name of the dog and the dog's owner if known, and, if not, so stating, and alleging that the dog is a public nuisance, the district or municipal judge shall give notice to the dog's owner that a complaint has been filed that the dog has been molesting certain persons and that the owner shall take the necessary action to prevent the dog from any further violations of this chapter. If the district or municipal judge receives a further complaint regarding the dog after notice has been given under this section, the judge shall issue a summons, if the owner is known, commanding the owner to appear before the judge in the same manner as other court summonses.

**42-03-02. Owner of dog not known.**

If it appears from the complaint that the owner is not known, ten days' notice shall be given by publication in one issue of a newspaper having wide circulation in the area. Such notice shall contain a description of the dog as given in the complaint, a statement that such complaint has been made, and the time and place of hearing thereon.

**42-03-03. Hearing - Judgment - Execution.**

On the day of hearing the district or municipal judge shall hear the evidence in the case. If the judge finds that the dog is a public nuisance, judgment must be entered accordingly, and the judge shall order any peace officer to kill and bury the dog, which order the peace officer shall forthwith execute.

**42-03-04. Costs.**

Costs shall be paid by the complainant, but if the dog is adjudged a nuisance, and the owner is known, judgment shall be entered against the owner for such costs.

State of North Dakota

In District Court

\_\_\_\_\_ County

\_\_\_\_\_ District

\_\_\_\_\_, Complainant )

)

Dog as Public Nuisance Complaint

v. )

)

)

\_\_\_\_\_, Defendant )

In accordance with North Dakota Century Code Chapter 42-03, the above-named Complainant hereby files with the District Court the following Complaint:

1. Description and name of dog complained of: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_.
2. Name and address of dog owner: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_.
3. Location of incident (must be a public road or street): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_.
4. Date and circumstances of the incident causing the complaint: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_.

The Complainant states the information provided is true and correct to the best information and belief of the Complainant.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Complainant

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zipcode

Signature Witnessed by:

\_\_\_\_\_