

## Information About Dogs 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 District Courts. The information provided in this informational guide **isn't** intended for legal advice but only as a general guide to a civil court process.

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

If you're unsure how to proceed, don't know if this information suits your needs, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota. For more information about finding a lawyer, go to [ndcourts.gov/legal-self-help/finding-a-lawyer](https://ndcourts.gov/legal-self-help/finding-a-lawyer).

**When you represent yourself, you're expected to know and follow the law, including:**

- 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 [ndcourts.gov](https://ndcourts.gov).

A glossary with definitions of legal terms is available at [ndcourts.gov/legal-self-help/glossary](https://ndcourts.gov/legal-self-help/glossary).

**When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.**

***This information isn't a complete statement of the law. This covers basic information about dogs as public nuisance complaints in a North Dakota state district court. The Center isn't responsible for any consequences that may result from the information provided. The information can't replace the advice of a lawyer licensed in 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](#).

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

### **If you decide to file your complaint in Municipal Court:**

[NDCC 42-03: Dogs As Public Nuisance](#) allows a complaint to be filed in a North Dakota state district court **or** a municipal court.

**This information guide specifically contains information for filing a complaint in a North Dakota state district court.** If you want to file a complaint in a **municipal court**, contact the [Municipal Court](#) to ask about filing a complaint.

### **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 to 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.”

**Important!** 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 isn’t known, state this on the Complaint.
  - Name and address of the dog’s owner, if known.
    - If the name of the dog’s owner isn’t 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) that led to the Complaint.
2. **Caution!** By signing the Complaint, you’re declaring, under penalty of perjury under the law of North Dakota, that the Complaint is true and correct.
  - Sign the completed Complaint;
  - Print or type your name;
  - Print or type your address, telephone number, and email address.
3. File the completed and signed and “Dog as Public Nuisance Complaint” with the clerk of court.
4. Pay the \$20.00 filing fee.

## The Complaint is filed as a civil case in the North Dakota State District Court:

The completed Complaint is filed as a civil case in the North Dakota State District Court. The Court sends a copy of the Complaint to the dog’s owner together with a notice that a Complaint has been received. The notice instructs the owner to take the necessary action to prevent the dog from creating a nuisance.

You also receive a copy of the Complaint and notice.

**Important!** The Court takes no further enforcement action until and unless a second Complaint is received concerning the dog's activities.

**See pages 4 & 5** for instructions on publication if the owner isn't known.

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

If the dog continues to be 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 schedules a hearing and issues a Summons to the dog's owner. The Summons requires the owner to appear at the hearing.

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

The district judge hears evidence in the case. If the judge finds the dog is a public nuisance, the judge orders any peace officer to kill and bury the dog.

**See the information below** for instructions on publication if the owner isn't known.

### **Publication if the owner of the dog is not known:**

North Dakota Century Code 42-03-02 states as follows:

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 that 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.

**Caution:** [N.D.C.C. § 42-03-02](#) doesn't clarify whether the owner of the dog must be notified by publication for the first complaint **or** only for the second complaint.

It also doesn't clarify whether the court publishes the notice **or** if the person making the complaint must publish the notice.

North Dakota Legal Self Help Center staff **can't** interpret the law for you, as this requires legal advice. Center staff **can't** give you legal advice under any circumstances. If you want the law interpreted for you, consult a [lawyer](#).

## Costs:

Keep track of your costs for filing the Complaint(s).

The costs incurred in pursuing this matter is paid by you, but if the dog is adjudged a nuisance, and the owner is known, judgment is 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 Of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_  
Complainant, )  
vs )  
\_\_\_\_\_  
Defendant. )

Case No. \_\_\_\_\_

Dog as Public Nuisance Complaint

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

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: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

5. I declare, under penalty of perjury under the law of North Dakota, that the foregoing Complaint is true and correct.

Signed on \_\_\_\_\_ (date) in \_\_\_\_\_ (city),  
\_\_\_\_\_ (county), \_\_\_\_\_ (state), \_\_\_\_\_ (country).

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Email Address)