

15. DOGS AS PUBLIC NUISANCE

15.1 Procedure

N.D.C.C. Ch. 42-03 establishes a complaint process for dogs that create a public nuisance.

- A. Upon receipt of a complaint alleging a dog is a public nuisance, provide the instructions for filing a complaint, and the accompanying complaint form, to the complaining person and inform the person that the complaint form must be completed and returned to the clerk's office. Upon receipt of the completed form, file the complaint in the civil series. Open a new case file.
- B. The filing fee (\$10) must be submitted when the completed complaint form is filed.
- C. Generate and send notice, including a copy of N.D.C.C. Ch. 42-03, to the dog owner that a complaint has been filed. Send a copy of the notice and statute to the complainant. Close the case.
- D. If a complaint is filed reopen the case. A second filing fee is not required.
 - 1. Schedule a hearing and issue a summons to the dog's owner requiring the owner to appear at the hearing. If the owner is not known, publish notice of the hearing at least 10 days before the hearing date.
 - 2. Send a copy of the summons to the complainant with a notice that the complainant must appear at the hearing.
- E. Costs of the proceeding must be paid by the complainant unless the court finds the dog is a nuisance, in which case the owner must be assessed costs unless the owner is unknown.

DOGS AS PUBLIC NUISANCE - FILING OF COMPLAINTS

— INSTRUCTIONS —

1. N.D.C.C. Chapter 42-03 provides "(a)ny dog that habitually molests persons 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."
 2. If you wish to file a written complaint with the district judge, you must complete the attached "Dog as a Public Nuisance Complaint" and file it with:

_____ County Clerk of District Court
_____ (P.O. Box or Street Address)
_____ City), ND _____ (Zipcode)
- A filing fee of \$10 must be enclosed with the complaint. **Note:** The complaint will not be filed without the required filing fee.
3. The completed complaint will be filed as a civil case in the 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.
 4. 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". There is no additional fee for filing the second complaint.
 5. 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.

6. 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.

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:

State of North Dakota

In District Court

_____ County

_____ District

NOTICE OF FILING OF DOG AS PUBLIC NUISANCE COMPLAINT

TO: (Dog Owner's Name)
(Address)
(City), ND (Zipcode)

PLEASE TAKE NOTICE THAT THE ATTACHED DOG AS PUBLIC NUISANCE COMPLAINT HAS BEEN FILED IN THE _____ COUNTY DISTRICT COURT.

N.D.C.C. Chapter 42-03 provides "(a)ny dog that habitually molests persons 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."

The purpose of this notice is to advise you that you must take the necessary actions to prevent your dog from any further actions that may constitute a public nuisance. If another complaint regarding your dog is filed, a summons will be issued commanding you to appear before the judge for a hearing to determine whether your dog is a public nuisance. North Dakota law further provides that if the judge finds that your dog is a public nuisance, the judge must enter an order requiring a peace officer to kill and bury the dog. If your dog is adjudged a nuisance, you will be ordered to pay all costs incurred in this action.

To avoid further involvement of the court in this matter, please take the necessary steps to see that your dog is prohibited from habitually molesting any persons traveling peaceably on a public road or street.

Dated this _____ day of _____, _____.

By the Court,

District Judge

cc: Complainant