

# **TITLE 1 GENERAL PROVISIONS**

## **CHAPTER 1-01 GENERAL PRINCIPLES AND DEFINITIONS**

### **1-01-01. This act - How referred to.**

This revision, whenever cited, enumerated, referred to, or amended may be designated as the "North Dakota Century Code". Where the expression "this code" appears therein without explanatory or descriptive language, it means the "North Dakota Century Code" unless the context clearly indicates a different meaning.

### **1-01-01.1. Adoption of North Dakota Revised Code of 1943.**

Repealed by omission from this code.

### **1-01-01.2. Adoption of code not repeal of laws passed in 1944 Special Session.**

Repealed by omission from this code.

### **1-01-02. Origin of law.**

Law is a rule of property and of conduct prescribed by the sovereign power.

### **1-01-03. Expression of law.**

The will of the sovereign power is expressed by:

1. The Constitution of the United States.
2. Treaties made under the authority of the United States.
3. Statutes enacted by the Congress of the United States.
4. The constitution of the state.
5. The statutes of the state.
6. The ordinances of other and subordinate legislative bodies.
7. The decisions of the tribunals enforcing those rules, which, though not enacted, form what is known as customary or common law.

### **1-01-04. Common law divided.**

The common law is divided into:

1. Public law, or the law of nations; and
2. Domestic or municipal law.

### **1-01-05. Evidence of common law.**

The evidence of the common law is found in the decisions of the tribunals.

### **1-01-06. Code excludes common law.**

In this state there is no common law in any case in which the law is declared by the code.

### **1-01-07. Classification of civil rights.**

All original civil rights are either:

1. Rights of person; or
2. Rights of property.

### **1-01-08. Rights of property and person - How waived.**

Rights of property and of person may be waived, surrendered, or lost by neglect in the cases provided by law.

**1-01-09. Word defined by statute always has same meaning.**

Whenever the meaning of a word or phrase is defined in any statute, such definition is applicable to the same word or phrase wherever it occurs in the same or subsequent statutes, except when a contrary intention plainly appears.

**1-01-10. Quorum.**

Except as otherwise provided, a majority of any board or commission shall constitute a quorum.

**1-01-11. Authority of deputies.**

Any duty imposed upon a ministerial officer, and any act permitted to be done by that officer, unless otherwise provided, may be performed by that officer's lawful deputy.

**1-01-12. Variation from prescribed form.**

If a form is prescribed, deviations therefrom not affecting the substance or calculated to mislead does not vitiate the form used.

**1-01-13. Numerals.**

The Roman numerals and the Arabic numerals are deemed parts of the English language.

**1-01-14. Degrees of care.**

There are three degrees of care and of diligence mentioned in this code, namely, slight, ordinary, and great. Each of the last two includes any lesser degree or degrees.

**1-01-15. Degrees of care and diligence - Definition.**

Slight care or diligence means such as a person of ordinary prudence usually exercises about that person's own affairs of slight importance. Ordinary care or diligence means such as a person usually exercises about that person's own affairs of ordinary importance. Great care or diligence means such as a person usually exercises about that person's own affairs of great importance.

**1-01-16. Degrees of negligence.**

There are three degrees of negligence mentioned in this code, namely, slight, ordinary, and gross. Each of the last two includes any lesser degree or degrees.

**1-01-17. Degrees of negligence - Definition.**

Slight negligence shall consist in the want of great care and diligence, ordinary negligence, in the want of ordinary care and diligence, and gross negligence, in the want of slight care and diligence.

**1-01-18. Children - Definition.**

The term "children" includes children by birth and by adoption.

**1-01-19. Debtor and creditor - Definition.**

Except as otherwise defined and used in title 13, everyone who owes to another the performance of an obligation must be called a debtor and the one to whom that person owes it must be called a creditor.

**1-01-20. Valuable consideration - Definition.**

A valuable consideration means a thing of value parted with, or a new obligation assumed at the time of obtaining a thing, which is a substantial compensation for that which is obtained thereby. It also is called simply "value".

**1-01-21. Good faith - Definition.**

Good faith shall consist in an honest intention to abstain from taking any unconscientious advantage of another even through the forms or technicalities of law, together with an absence of all information or belief of facts which would render the transaction unconscientious.

**1-01-22. Notice - Classification.**

Notice shall be either actual or constructive.

**1-01-23. Actual notice - Definition.**

Actual notice shall consist in express information of a fact.

**1-01-24. Constructive notice - Definition.**

Constructive notice means notice imputed by the law to a person not having actual notice.

**1-01-25. What deemed constructive notice.**

Every person who has actual notice of circumstances sufficient to put a prudent person upon inquiry as to a particular fact and who omits to make such inquiry with reasonable diligence is deemed to have constructive notice of the fact itself.

**1-01-26. False notice cannot become valid.**

A notice which is false when given is not made valid by the subsequent happening of the event.

**1-01-27. Paper - Definition.**

The word "paper" means any flexible material upon which it is usual to write.

**1-01-28. Person - Definition.**

Repealed by S.L. 1995, ch. 55, § 30; S.L. 1995, ch. 103, § 80.

**1-01-29. Several - Definition.**

The word "several" in relation to number means two or more.

**1-01-30. Third persons - Definition.**

The words "third persons" includes all who are not parties to the obligation or transaction concerning which the phrase is used.

**1-01-31. Usage - Definition.**

Usage is a reasonable and lawful public custom concerning transactions of the same nature as those which are to be affected thereby, existing at the place where the obligation is to be performed, and either known to the parties or so well established, general, and uniform that they must be presumed to have acted with reference thereto.

**1-01-32. Usual and customary - Definition.**

The words "usual" and "customary" mean "according to usage".

**1-01-33. Year - Month - Week - Definition - Fraction of day disregarded.**

The word "week" means seven consecutive days and the word "month" a calendar month. The word "year" means twelve consecutive months. Fractions of a year are to be computed by the number of months; thus, half a year is six months. Fractions of a day are to be disregarded in computations which include more than one day and involve no questions of priority.

**1-01-34. Gender - Definition.**

Words of one gender include the other genders.

**1-01-35. Singular - Definition.**

Words used in the singular number include the plural and words used in the plural number include the singular, except when a contrary intention plainly appears.

**1-01-35.1. Tense.**

Words in the present tense include the future.

**1-01-36. Compound interest - Definition.**

The words "compound interest" mean interest added to the principal as the former becomes due and thereafter made to bear interest.

**1-01-37. Written and printed - Definition.**

The words "writing" and "written" include "typewriting" and "typewritten", and "printing" and "printed", except in the case of signatures and when the words are used by way of contrast to typewriting and printing. Writing may be made in any manner, except that when a person entitled to require the execution of writing demands that it be made with ink, it must be so made.

**1-01-38. Seal - Definition.**

When the seal of a court, public officer, or person is required by law to be affixed to any process, commission, paper, or instrument, the word "seal" includes an impression of such seal upon the paper alone as well as upon wax or a wafer affixed thereto.

**1-01-39. When this code governs.**

The provisions of this code, so far as they relate to procedure, or alleviate the punishment to be imposed upon conviction in any case, govern in all criminal actions in any way prosecuted or tried after the date upon which it takes effect, whether the offense was committed before or after such date.

**1-01-40. Coal - Definition.**

Wherever the word "coal" appears in the laws of this state, or in the resolutions of the legislative assembly, it means all kinds of coal, and includes what is known as lignite coal, unless a contrary intention plainly appears.

**1-01-41. Verdict - Definition.**

The word "verdict" includes not only the verdict of a jury, but also the finding upon the facts of a judge or of a master appointed to determine the issues in a cause.

**1-01-42. Verified - Definition.**

"Verified" means sworn to before an officer authorized to administer oaths.

**1-01-43. State on Mountain Time until return of United States to Standard Time.**

Repealed by omission from this code.

**1-01-44. Successive weeks construed.**

Whenever in any act or statute of the state of North Dakota providing for the publication of a notice the phrase "successive weeks" is used, the word weeks must be construed to mean calendar weeks, and the publication upon any day in a week is sufficient publication for that week if at least five days intervene between such publication and the publications immediately preceding and immediately following. All publications heretofore or hereafter made in accordance with the provisions of this section are deemed legal and valid.

**1-01-45. Corporate surety - Definition.**

A corporate surety is a corporation or limited liability company duly authorized under the laws of this state to transact a surety business therein.

**1-01-46. Decree - Definition.**

The word "decree", unless otherwise provided, has the same meaning as the word "judgment".

**1-01-47. Population - Definition.**

The term "population" means the number of inhabitants as determined by the last preceding state or federal census.

**1-01-48. Division of child welfare - Definition.**

Repealed by S.L. 1981, ch. 486, § 37.

**1-01-49. Other general definitions.**

As used in this code, unless the context otherwise requires or unless otherwise defined:

1. "Depose" includes every mode of written statement under oath or affirmation.
2. "Executor" includes administrator and "administrator" includes executor.
3. "Female" means a girl, woman, or an individual whose biological reproductive system is developed to produce ova.
4. "Individual" means a human being.
5. "Male" means a boy, man, or an individual whose biological reproductive system is developed to produce sperm.
6. "Oath" includes "affirmation".
7. "Organization" includes a foreign or domestic association, business trust, corporation, enterprise, estate, joint venture, limited liability company, limited liability partnership, limited partnership, partnership, trust, or any legal or commercial entity.
8. "Partnership" includes a limited liability partnership registered under chapter 45-22.
9. "Penitentiary" includes any affiliated facilities.
10. "Person" means an individual, organization, government, political subdivision, or government agency or instrumentality. The term does not include environmental elements, artificial intelligence, an animal, or an inanimate object.
11. "Personal property" includes money, goods, chattels, things in action, and evidences of debt.
12. "Preceding" and "following" when used by way of reference to a chapter or other part of a statute means the next preceding or next following chapter or other part.
13. "Primary sector business" means an individual, corporation, limited liability company, partnership, or association certified by the department of commerce division of economic development and finance which through the employment of knowledge or labor adds value to a product, process, or service which results in the creation of new wealth.  
For purposes of this subsection, "new wealth" means revenues generated by a business in this state through the sale of products or services to:
  - a. Customers outside of this state; or
  - b. Customers in this state if the products or services were previously unavailable or difficult to obtain from a business in this state.
14. "Process" means a writ or summons issued in the course of judicial proceedings.
15. "Property" includes property, real and personal.
16. "Real property" shall be coextensive with lands, tenements, and hereditaments.
17. "Rule" includes regulation.
18. "Sex" means the biological state of being male or female, based on the individual's nonambiguous sex organs, chromosomes, or endogenous hormone profiles at birth.
19. "Signature" or "subscription" includes "mark" when the person cannot write, the person's name being written near it and written by a person who writes that person's own name as a witness.
20. "State" when applied to the different parts of the United States, includes the District of Columbia and the territories.
21. "Testify" includes every mode of oral statement under oath or affirmation.

22. "United States" includes the District of Columbia and the territories.
23. "Will" includes codicils.
24. "Writ" means an order or precept in writing, issued in the name of the state or of a court or judicial officer.

**1-01-50. Filing or presentation of petitions - Time limit.**

Whenever in this code provision is made for the filing or presentation of a petition with or to any officer or governing body or board of the state or any agency, instrumentality, or political subdivision thereof as a prerequisite to the calling of an election, or the performance or prohibition of any act, such petition must be filed with or presented to such officer or governing body or board not later than one year from the date such petition is first placed in circulation, or the date the first signature is affixed thereto, whichever date is the latest. If a petition is required by law to be filed or presented on or before a specific or certain date, the petition shall be filed or presented, and physically be in the possession of the person or office designated to receive such petition before four p.m. on such date. The provisions of this section shall not apply in any case in which the law governing a particular petition specifies a shorter or a longer period of time or a different time of day.

**1-01-51. Qualified elector defined.**

Unless otherwise provided, as used in this code concerning qualifications for signing petitions to governmental bodies, "qualified elector" means a citizen of the United States who is eighteen years of age or older; and is a resident of this state and of the area affected by the petition.