

215.41 BURNING OF A [MOBILE HOME] [MANUFACTURED-TYPE HOUSE]  
[RECREATIONAL TRAILER HOME]. FELONY.

The defendant has been charged with willfully and maliciously burning<sup>1</sup> a [mobile home] [manufactured-type house] [recreational trailer home].

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant burned a [mobile home] [manufactured-type house] [recreational trailer home].

Second, that the [mobile home] [manufactured-type house] [recreational trailer home] was the dwelling house<sup>2</sup> of another. (A dwelling house is a house that is inhabited, that is, a house that is the permanent, temporary, or seasonal residence of some person.)

Third, that the [mobile home] [manufactured-type house] [recreational trailer home] was occupied<sup>3</sup> at the time of the burning, that is, that some person was physically present in the structure at the time of the burning.

And Fourth, that the defendant did so willfully and maliciously, that is, voluntarily without excuse or justification.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant willfully and maliciously burned a [mobile home] [manufactured-type house] [recreational trailer home], that the structure was the dwelling house of another, and that the structure was occupied at the time of the burning, it would be your duty to return a verdict of guilty. If you do not so find, or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

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1. The malicious burning of any mobile home or manufactured-type house or recreational trailer which is the dwelling house of another also constitutes the crime of arson. N.C. Gen. Stat. § 14-58.2.

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2. If there is an issue as to whether the structure burned was a dwelling house, add the following to this element. "A house is not a dwelling house if it is [under construction and no one has yet moved in] [between tenants] [abandoned]." *S. v. Long*, 243 N.C. 393 (1956).

3. "Inhabited" does not mean "occupied." A house can be inhabited and therefore a "dwelling house" even though its inhabitants are temporarily absent at the time the burning occurred. See *State v. Gulley*, 46 N.C. App. 822 (1980).