

215.45 BURNING PERSONAL PROPERTY WITH INTENT TO INJURE OR PREJUDICE.
FELONY.

The defendant has been charged with wantonly and willfully [setting fire to] [burning] [causing to be burned] [aiding, counseling, or procuring the burning of] personal property.

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

First, that the defendant [set fire to¹] [burned] [caused to be burned] [aided, counseled, or procured the burning of] any [goods] [wares] [merchandise] [(describe other chattels or personal property of any kind)].

Second, that the burning occurred in a place that was not a commercial structure. A commercial structure is any building or structure that is designed principally for the manufacture, distribution, or exchange of goods or services, or for any other business or trade purpose.²

Third, that the defendant did so wantonly and willfully, that is, intentionally and without justification or excuse, with the knowledge or reasonable grounds to believe the defendant’s act would endanger the rights or safety of others.³

And Fourth, that the defendant did so with the intent to injure or prejudice [the insurer] [a creditor] [the owner] [another person].⁴ (This intent may be inferred from [the nature of the act] [the manner in which the act was done] [the conduct of the parties]).⁵

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant wantonly and willfully [set fire to] [burned] [caused to be burned] [aided, counseled, or procured the burning of] any [goods] [wares] [merchandise] [(describe other chattels or personal property of any kind)], that the burning occurred in a place that was not a commercial structure, and that the defendant had the intent to injure or prejudice [the insurer] [the creditor] [the

owner] [another person], 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.

1. It is possible for a person to “set fire to” property without burning it. *S. v. Hall*, 93 N.C. 573 (1885). If there is some question as to whether the defendant “set fire to” the property, the jury may be told that “a person sets fire to property whenever *he* causes fire to come into contact with the property, even though the property may not in fact be burned or is merely scorched or discolored by heat.” If there is some question as to whether the defendant “burned” the property, the jury may be told that “a partial burning or the slightest charring is sufficient, but a mere scorching or discoloration by heat does not constitute a burning.”

2. N.C. Gen. Stat. § 14-62.3.

3. See *S. v. Brackett*, 306 N.C. 138 (1982) for a discussion of the terms willful and wanton as used in this statute. The words have substantially the same meaning. The terms willful and wanton also mean the same thing as intentional.

4. A violation of N.C. Gen. Stat. § 14-66 requires, in addition to the willful and wanton burning of personal property, that the defendant have the specific intent to injure or prejudice. See *State v. Wesson*, 45 N.C. App. 510 (1980). For further instructions on intent, see N.C.P.I.—Crim. 120.10.

5. N.C. Gen. Stat. § 14-66 does not require that the property be insured at the time of the burning. It also applies irrespective of who owns the property.