

N.C.P.I.—Crim 208.90C
DISCHARGING A BARRELED WEAPON INTO AN OCCUPIED DWELLING.
FELONY.
CRIMINAL VOLUME
REPLACEMENT JUNE 2016
N.C. Gen. Stat. § 14-34.1

208.90C DISCHARGING A BARRELED WEAPON INTO AN OCCUPIED
DWELLING. FELONY.

The defendant has been charged with discharging a barreled weapon¹
into an occupied dwelling.²

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

First, that the defendant willfully or wantonly discharged a barreled
weapon into a dwelling (without justification or excuse).³ An act is willful or
wanton when it is done intentionally⁴ with knowledge or a reasonable ground
to believe that the act would endanger the rights or safety or others. A
barreled weapon is a weapon capable of discharging shot, bullets, pellets, or
other missiles at a muzzle velocity of at least 600 feet per second. (A
(*describe weapon*) is a barreled weapon.)

Second, that the dwelling was occupied by one or more persons at the
time that the barreled weapon was discharged.

And Third, that the defendant [knew] [had reasonable grounds to
believe] that the dwelling was occupied by one or more persons.

If you find from the evidence beyond a reasonable doubt that on or
about the alleged date, the defendant willfully or wantonly discharged a
barreled weapon into dwelling (without justification or excuse), while it was
occupied by one or more persons, and that the defendant [knew] [had
reasonable grounds to believe] that it was occupied by one or more persons,
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 Where the charge involves use of a firearm under the statute, use N.C.P.I.—Crim. 208.90B.

2 A dwelling house is a house that is inhabited, that is, a house that is the permanent, temporary, or seasonal residence of some person. A dwelling house is occupied when some person is physically present in the dwelling house at that time.

3 The parenthetical phrase should be used only where there is evidence of justification or excuse, such as self-defense.

4 See *State v. Bryant*, ___ N.C. App. ___, 779 S.E.2d 508 (2015) (holding that, in a discharging a barreled weapon into occupied property case, the trial court did not err by instructing the jury that because the crime was a general intent crime, the state need not prove that the defendant intentionally discharged the firearm into occupied property, and that it needed only prove that he intentionally discharged the firearm).