

WANTON AND WILLFUL BURNING--PROPERTY. G.S. §§ 14-58 THROUGH
14-67.1. FELONIES.

The defendant has been charged with wantonly and willfully
[setting fire to] [burning] [causing the burning of]¹ (*generally
describe property, e.g., a public building*).

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

First, that the defendant intentionally [set fire to]²
[burned] [caused the burning of] (*describe property, e.g., a
building*).

Second, that this (*describe property, e.g, building*) was
[the State Capitol³].

[the Legislative Building³].

[the Justice Building³].

[a building [owned] [occupied] by [the State of North
Carolina] [(*name state agency, institution or subdivision*)³]].

¹G.S. §§ 14-58 through 14-67.1 also make it an offense to "aid, counsel
or procure" the burning of property. If the defendant is prosecuted under one
of these statutes for "aiding" the burning of property, use the elements of
N.C.P.I.--Crim. 202.20A (Aiding and Abetting) and incorporate this instruction
as indicated therein. If the defendant is prosecuted under one of these
statutes for "counseling" or "procuring" the burning of property, use the
elements of N.C.P.I.--Crim. 202.30 (Accessory Before the Fact) and incorporate
this instruction.

²It 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."

³G.S. § 14-59.

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[a building [owned] [occupied] by [(name county)] [(name incorporated city or town)] [(name other governmental or quasi-governmental entity)³]].

[a schoolhouse⁴].

[a building [owned] [leased] [used] by [(name public or private school, college, or educational institution)⁴]].

[a public bridge⁵].

[a private toll bridge⁵].

[the bridge of (name incorporated company)⁵].

[a fire engine house⁵].

[a rescue squad building⁵].

[a house belonging to (name incorporated company or unincorporated association) and used in the business of that [company] [association]⁵].

[an uninhabited⁶ house⁷].

[a church or chapel⁸].

[a meetinghouse⁸].

⁴G.S. § 14-60.

⁵G.S. § 14-61.

⁶If there is some question as to whether the property burned was an uninhabited house, the jury may be told that "an uninhabited house is a house that is fit for habitation, but was not being lived in at the time it was burned. S. v. Long, 243 N.C. 393 (1956).

⁷G.S. § 14-62. A defendant may properly be charged under G.S. 14-67 (Class E felony) for burning a tobacco farm or storage building despite the fact that G.S. 14-64 punishes burning a "tobacco house" as a Class H felony. S. v. Vickers, 306 N.C. 90, 97-99 (1962). See N.C.P.I.--Crim. 215.35.

⁸G.S. 14-62.2 makes burning a church, chapel, or meeting house a Class E felony, for offenses occurring on or after June 21, 1996.

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[a stable⁸].

[a coach house⁸].

[a barn⁸].

[a granary⁸].

[a warehouse⁸].

[an office⁸].

[a shop⁸].

[a mill⁸].

[a [building] [structure] [erection] used or intended to be
used in carrying on (*describe trade or manufacturing*)⁸].

[a [building] [structure] in the process of construction for
use or intended to be used [as a dwelling house] [in carrying on
(*describe trade or business*)] [(*describe other use*)]⁹].

[any other building or structure]¹⁰

And 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 that his act would
endanger the rights or safety of others.¹¹

If you find from the evidence beyond a reasonable doubt that
on or about the alleged date the defendant intentionally [set
fire to] [burned] [caused the burning of] a [building]

⁹G.S. § 14-62.1.

¹⁰G.S. § 14-67.1.

¹¹See S. v. Brackett, 306 N.C. 138 (1982) for a discussion of terms
willful and wanton as used in this statute. The words have substantially the
same meaning.

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[structure] [erection] [bridge] and that this (*describe property*)
was (*use appropriate statutory characterization listed in the
second element, e.g., a building occupied by the N.C. Department
of Correction*), and that the defendant did so wantonly and
willfully, 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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Note: Specific Buildings and Structures
Named in Article 15

<u>Building or Structure</u>	<u>Section</u>	<u>Offense Class</u>
Ginhouse or tobacco house, or any part thereof	14-64	H
Dwelling house	14-58, 14-65	D,G,H
Any building designed or intended as a dwelling house	14-65	H
Mobile home	14-58.2	D,G
Manufactured-type house	14-58.2	D,G
Recreational trailer home	14-58.2	D,G
NC State Capitol	14-59	F
NC Legislative building	14-59	F
NC Justice building	14-59	F
Any building owned or occupied by the State (or any of its agencies, institutions, or subdivisions, or by any county, incorporated city or town or other governmental or quasi-governmental entity)	14-59	F
Schoolhouse	14-60	F
Any building owned, leased, or used by any public or private school, college, or educational institution	14-60	F
Public bridge	14-61	F
Private toll bridge	14-61	F
Bridge of any incorporated company	14-61	F
Fire-engine house	14-61	F
Rescue-squad building	14-61	F

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<u>Building or Structure</u>	<u>Section</u>	<u>Offense Class</u>
Any house belonging to an incorporated company or unincorporated association and used in the business of such company or association	14-61	F
Uninhabited house	14-62	F
Church ¹²	14-62	E (F)
Chapel ¹²	14-62	E (F)
Meetinghouse ¹²	14-62	E (F)
Stable	14-62	F
Coach house	14-62	F
Outhouse	14-62	F
Warehouse	14-62	F
Office	14-62	F
Shop	14-62	F
Mill	14-62	F
Barn	14-62	F
Granary	14-62	F
Any building, structure, or erection used or intended to be used in carrying on any trade or manufacture	14-62	F
Any building or structure in the process of construction for use, or intended to be used, as a dwelling house or in carrying on any trade or manufacture	14-62.1	H

¹²Offenses occurring on or after June 21, 1996, G.S. § 14-62.2 are punishable as Class E felonies.

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<u>Building or Structure</u>	<u>Section</u>	<u>Offense Class</u>
Boat	14-63	H
Barge	14-63	H
Ferry or float	14-63	H
Goods, wares, or merchandise	14-66	H
Other chattels or personal property of any kind	14-66	H
Any other building or structure	14-67.1	H

