

DISORDERLY CONDUCT (ABUSIVE LANGUAGE OR GESTURES).<sup>1</sup>  
G.S. 14-288.4(a)(2). MISDEMEANOR.

The defendant has been charged with disorderly conduct.

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

First, that the defendant willfully (and without justification or excuse) [made] (or) [used] (a) (an) [utterance] [gesture] [display] [abusive language].

Second, that such [utterance] [gesture] [display] [abusive language] was intended and plainly likely to provoke violent retaliation and thereby cause a breach of the peace.

Third, that such [utterance] [gesture] [display] [abusive language] was a public disturbance. A public disturbance is an annoying, disturbing, or alarming act or condition occurring in a public place that is beyond what would normally be tolerated in that place at that time. ((Name place) is a public place.)<sup>2</sup>

And Fourth, that such public disturbance was intentionally caused by the defendant.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant willfully and intentionally (without justification or excuse) [made] (or)

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<sup>1</sup>For other types of disorderly conduct, see N.C.P.I.--Crim. 226A.30 and G.S. 14-288.4.

<sup>2</sup>Conceivably, the question of whether a place is "public" could be a question of fact for the jury. However, most, if not all, of the time it would appear to be a question of law. When in doubt, consult G.S. 14-288.1(8). The remainder of this instruction proceeds on the assumption that the question is a matter of law. Caveat: A place to which "a substantial group has access" is a public place under G.S. 14-288.1(8).

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G.S. 14-288.4(a)(2). MISDEMEANOR. (Continued.)

[used] (a) (an) [utterance] [gesture] [display] [abusive language] that was intended and plainly likely to provoke violent retaliation and thereby cause a breach of the peace, and that such [utterance] [gesture] [display] [abusive language] was a public disturbance, 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.