

N.C.P.I.-Crim. 208.90C
DISCHARGING A BARRELED WEAPON INTO AN OCCUPIED DWELLING.
FELONY.
GENERAL CRIMINAL VOLUME
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.

¹ Where the charge involves use of a firearm under the statute, use N.C.P.I.-Crim. 208.90B.

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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).