

222.40A SETTING FIRE TO [GRASSLAND] [BRUSHLAND] [WOODLAND]
(DEFENDANT'S PROPERTY). MISDEMEANOR.

NOTE WELL: For a first offense, the defendant would be guilty of a Class 2 misdemeanor. For a second or any subsequent offense, the defendant would be guilty of a Class 1 misdemeanor. If intent to damage the property of another is shown, then the defendant shall be punished as a Class I felon and N.C.P.I.—Crim. 222.41 should be used.

The defendant has been charged with intentionally setting fire to [grassland] [brushland] [woodland] .

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

First, that the defendant intentionally set fire to (*describe property*).

Second, that the property was [grassland] [brushland] [woodland].¹

Third, that this property was the property of the defendant.

Fourth, that the defendant failed to notify all persons owning or in charge of lands adjoining the land fired.

(And) Fifth, that the defendant failed to take care to watch the fire and extinguish it before the fire reached lands near to or adjoining the land fired.

((And Sixth), that on (*name date*) the defendant, in (*name court*) [was convicted of] [pled guilty to] the felony of setting fire to [grassland] [brushland] [woodland] property of another, that was committed on (*name date*) in violation of the law of the [State of North Carolina] [State of (*name other state*)] [United States])².

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally set fire to (*describe property*), that the property was [grassland] [brushland] [woodland] which was the property of the defendant, that the defendant failed to notify all

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persons owning or in charge of lands adjoining the land fired, that the defendant failed to take care to watch the fire and extinguish it before the fire reached lands near to or adjoining the land fired, (and that on (*name date*) the defendant in (*name court*) [was convicted of] [pled guilty to] the felony of setting fire to [grassland] [brushland] [woodland] property of another, that was committed on (*name date*) in violation of the law of [State of North Carolina] [State of (*name other state*)] [United States], 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. G.S. 14-136 defines "woodland" to include "all forest areas, both timber and cutover land, and all second-growth on areas that have at one time been cultivated." The statute does not define "grassland" or "brushland."

2. See G.S. 15A-928 if this alternative element applies.