

236A.30 DISORDERLY CONDUCT (FIGHTING OR OTHER VIOLENT CONDUCT).¹ MISDEMEANOR.

The defendant has been charged with disorderly conduct.

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

First, that the defendant willfully (and without justification or excuse) engaged in [fighting] [violent conduct]² [conduct creating the threat of imminent fighting or other violence].

Second, that such [fighting] [conduct] 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.)³

And Third, 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 engaged in [fighting] [violent conduct] that caused a public disturbance, it would be your duty to return a verdict of guilty of disorderly conduct. 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. For other types of disorderly conduct, see N.C.P.I.—Crim. 226A.31 and G.S. 14-288.4.

2. The statute does not define violent conduct, but the committee is of the opinion that violent conduct is conduct which involves the use of force. See *State v. Weaver*, 44 N.C. 9, 13 (1852).

3. 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).