

**CRIMINAL MISCHIEF
FOURTH DEGREE
(A Misdemeanor)
(Destruction of Abandoned Building)
PENAL LAW 145.00(2)
(Committed on or after Sept. 1, 1983)**

The ___ count is Criminal Mischief in the Fourth Degree.

Under our law, a person is guilty of Criminal Mischief in the Fourth Degree when that person, having no right to do so nor any reasonable ground to believe that he or she has such right, intentionally participates in the destruction of an abandoned building.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: “intentionally,” “abandoned building,” and “destruction of an abandoned building.”

Intent means conscious objective or purpose. Thus a person INTENTIONALLY participates in the destruction of an abandoned building when his or her conscious objective or purpose is to participate in the destruction of an abandoned building.¹

ABANDONED BUILDING means a dwelling, which has been certified by the municipality as being abandoned.²

DESTRUCTION OF AN ABANDONED BUILDING occurs when a person intentionally removes or damages any fixture or part of the structure of an abandoned building.³

¹See Penal Law § 15.05(1).

²See Real Property Actions and Proceedings Law § 1971.

³See Real Property Actions and Proceedings Law § 1971-a.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), intentionally participated in the destruction of an abandoned building; and
2. That the defendant had no right to do so nor any reasonable ground to believe that he/she had such right.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Criminal Mischief in the Fourth Degree as charged in the ___ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Criminal Mischief in the Fourth Degree as charged in the ___ count.