

ALAN WILSON ATTORNEY GENERAL

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Captain				
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P.O. Box 11706 Rock Hill, South Carolina 29731-1706

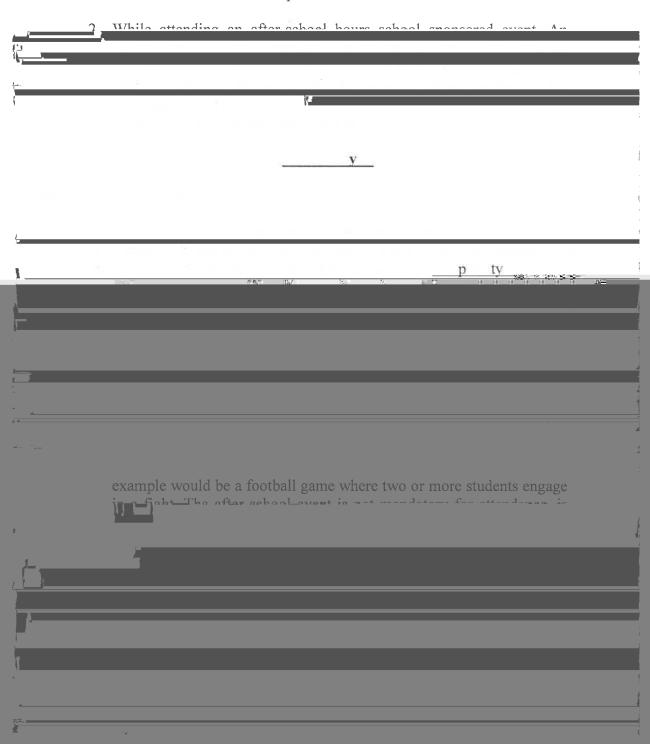
Dear Captain Harveston:

We received your letter requesting an opinion from this Office concerning a Rock Hill ordinance making certain disorderly conduct unlawful. According to your letter, the City of Rock Hill adonted "an ordinance which is based off the state statute 16.17.530 Disorderly Conduct but

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cause harm to those [in] proximity of the fight and could be injured by the actions of the involved parties.



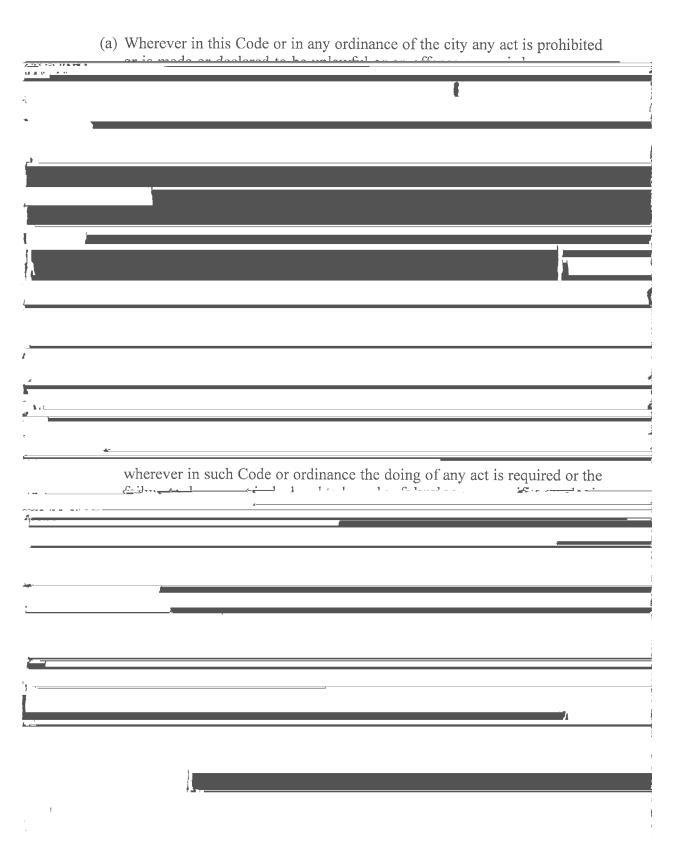
Any person who shall (a) be found on any highway or at any public place or public gathering in a grossly intoxicated condition or otherwise conducting himself in a disorderly or boisterous manner, (b) use obscene or profane language on any highway or at any public place or gathering or in hearing distance of any schoolhouse or church or (c) while under the influence or

feigning to be under the influence of intoxicating liquor, without just cause or excuse. discharge any gun, pistol or other firearm while upon or within fifty

yards of any public road or highway, except upon his own premises, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than any hundred dollars are his imprisoned for Bot more than thirty down

<u>Id.</u> at 463 (quoting S.C. Code Ann. § 16-17-530). Regarding this provision, the District Court determined:

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has not been occasioned by any improper conduct on his part, Coles v. New York Casualty Co. 1903 87 Ann Div 41 83 N.V.S. 1063. In State v. Gladden
1875, 73 N.C. 150, in pointing out the necessity of a mutual intent in fighting
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blows; that it is sufficient that both parties put their bodies in a position to give and take blows, and with that intent.
The definition of 'fighting' thus arrived at and it is the one used by the trial
The definition of 'fighting' thus arrived at-and it is the one used by the trial

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Sincerely,

Cydney Milling

Assistant Attorney General

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obert D. Cook Solicitor General