

# Office of the City Solicitor



**Presentation to the Public Safety & Legal Administration  
October 24, 2022**

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# CRITICAL ACTIVITIES

- High-Intensity Traffic
  - ❖ *Street Racing Ordinance*
  - ❖ *Street Racing Charges*
  - ❖ *Statutory Updates*
- Nuisance Properties Initiative
  - ❖ *Nuisance vs. Judicial In Rem*
- Community Outreach



# Street Racing and Reckless Driving Local Ordinance Violations

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## **Sec. 150-73(a) Non-driver participation in street racing and reckless driving exhibitions.**

- Organizer - Any individual who in any manner knowingly takes part in the planning, organization, coordination, facilitation, advertising or sharing of the location for any such illegal street race, or collects moneys in connection with an illegal street racing exhibition, as defined herein;
- Participant - Any individual who is knowingly present at an illegal street racing exhibition for the purpose of actively taking part in the event through conduct including riding in a race vehicle as a passenger, assisting the organizers and/or drivers in carrying out or promoting the event, or exchanging money or anything of value with any driver, car owner, or other participant in connection with the event.
- Mere Bystander - A person who is a mere bystander, passerby, or observer not aware of the illegal activity shall not be deemed a participant.



# 7 Common Charges Associated or Related to Street Racing

1. Racing - O.C.G.A. § 40-6-186
2. Speeding - O.C.G.A. § 40-6-181
3. Super Speeder - O.C.G.A. § 40-6-181 and § 40-6-189 (classification)
4. Reckless Driving - O.C.G.A. § 40-6-390
5. Laying Drag - O.C.G.A. § 40-6-251
6. Fleeing and Attempting to Elude - O.C.G.A. § 40-6-395
7. Reckless Stunt Driving - O.C.G.A. § 40-6-390.1



# 2022 Updates to the State Law for Fleeing and Eluding a Police Officer

**This revision provides for these additional circumstances where a misdemeanor offense is elevated to a felony:**

- (1) Driving on the sidewalk (O.C.G.A. § 40-6-144)
- (2) Passing a school bus stop sign (O.C.G.A. 40-6-163(a))
- (3) Laying drag (O.C.G.A. § 40-6-251 (a))
- (4) Reckless Driving (O.C.G.A. § 40-6-390 (a))
- (5) Reckless Stunt Driving (O.C.G.A. § 40-6-390.1(a))
- (6) DUI (O.C.G.A. § 40-6-391(a))
- (7) 4<sup>th</sup> Offense of Fleeing and Eluding
- (8) Fleeing and Eluding as Proximate Cause of an Accident



# Updates to Penalties for Fleeing and Eluding a Police Officer

The new law changes the penalty range on the offense to sentence convictions within 10 years to mandatory minimum fine and jail time as follows:

- 1<sup>st</sup> conviction: 30 days -12 months in jail and \$1,000 - 5,000
- 2<sup>nd</sup> conviction: 90 days -12 months in jail and \$2,500 - 5,000
- 3<sup>rd</sup> conviction: 180 days -12 months in jail and \$4,000 - 5,000
- 4<sup>th</sup> conviction (felony): 1-10 years in jail and \$5,000 - 10,000



# 2022 Updates to the Reckless Stunt Driving Statute

The crime of Reckless stunt driving (O.C.G.A. § 40-6-390.1) was created for those who commit either (1) Drag racing (O.C.G.A. § 40-6-186) or (2) Laying drag (O.C.G.A. § 40-6-186) while operating the vehicle *in reckless disregard for the safety of persons on a highway or upon private property without express authorization from the owner of such property*. The penalty range on this offense includes minimum mandatory fine and jail time as follows:

- 1<sup>st</sup> conviction: 10 days - 6 months in jail and \$300 - 750
- 2<sup>nd</sup> conviction: 90 days - 12 months in jail and \$600 - 1000
- 3<sup>rd</sup> conviction: 120 days - 12 months in jail and \$1000 - 5000
- 4<sup>th</sup> conviction (felony): 1 - 5 years in jail and \$1000 - 5000



# Updates to the Reckless Stunt Driving Statute

O.C.G.A. § 40-6-390.1(c)(1) provides the following forfeiture provisions:

- Any motor vehicle operated by a person who has been declared a habitual violator for three violations of this Code section, whose license has been revoked, and who is arrested and charged with a violation of this Code section is declared to be contraband and subject to forfeiture in accordance with the procedures set forth in Chapter 16 of Title 9.
- Subsection(c)(2) provides a standard for authorizing mitigation of forfeiture where a vehicle subject to forfeiture is the only family vehicle.





# NUISANCE PROPERTIES UPDATE

- The Office of the City Solicitor continues to work closely with the Administration and various city departments by engaging in monthly meetings to resolve the ongoing issues at problem residential, multi-family and commercial properties.
- Fulton Superior Court upheld Municipal Court's ruling declaring the operation of 400 Edgewood Avenue to be a nuisance.
- Two multi-family properties set to be filed before the end of the year.



# NUISANCE / IN REM ENFORCEMENT PROCEEDINGS

## Nuisance Actions Under Title 41 of the Official Code of Georgia Annotated

### Definitions:

**Nuisance** (from O.C.G.A. § 41-1-1): “Anything that causes hurt, inconvenience or damage to another and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of an ordinary, reasonable man.”

**Public nuisance** (from O.C.G.A. § 41-1-2): “One which damages all persons who come within its sphere of its operation, though it may vary in its effects on individuals.”

- Under O.C.G.A. §§ 41-2-1 through 41-2-5
- May be brought either in municipal court or superior court.
- Failure to abate a nuisance after an order is a misdemeanor under O.C.G.A. § 41-1-6
- Appeals are to be brought in superior court.



# NUISANCE / IN REM ENFORCEMENT PROCEEDINGS

## Atlanta Code of Ordinances Chapter 74-175; Atlanta Code of Ordinances

- Defines certain nuisances and provides means for abatement.
- Hearings conducted under authority of O.C.G.A. § 41-2-5.
- May be ordered by judge of municipal court, mayor or mayor's designee without hearing, though this may prove problematic.
- Sections 174-164 through 74-175 of the Atlanta Code of Ordinance declare certain conditions nuisances, including:
  - Pollution of water
  - Obnoxious gases or odors
  - Wells, cisterns, pits and holes
  - Buildings used to sell or dispose of illegal controlled substances
  - Junked vehicles
  - Unclean vacant lot
  - Graffiti
  - Violent crime
- Notice of condition required to be given to owner,
- Refusal to comply with order may be punished by fine up to \$1000 and/or confinement up to 180 days.



# Crime-Based Nuisance Under § 74-175

- Section 74-175(b) of the Atlanta Code of Ordinances declares crime a nuisance and states that “the city finds that multiple incidents of violent conduct or crime occurring on certain properties that foster or contribute to the commission of violent crime, endanger the public health, safety and welfare of the city.”
- Per § 74-175(c), “Where violent conduct or crime occurs on certain properties, the criminal activity causing the nuisance shall be enjoined, abated, and prevented. The owner of the property upon being notified shall take actions that are reasonable and necessary to reduce and eliminate the conditions that contribute to the commission of such violent conduct or crime. If the owner, the owner’s managing agent or the party responsible for the property knows or has reason to know of the criminal activity and fails to take reasonable, legally available actions to abate the nuisance, a governmental authority may abate the nuisance.”

## Potential remedies:

- (i) that the owner implement security measures on the property;
  - (ii) that the owner initiate dispossessory proceedings to evict tenants engaged in or permitting the conditions that contribute to the violent conduct or crime on the property;
  - (iii) The owner be assessed the cost of abating the nuisance;
  - (iv) that the owner, the owner’s managing agent or the party responsible for the property **be enjoined** from conducting any other activities on the property; and
  - (v) any other remedy deemed appropriate in abating nuisances in the state.
- Notice of the criminal activity must be given to those responsible for the property.



# NUISANCE / IN REM ENFORCEMENT PROCEEDINGS

## In rem enforcement proceedings under Article V of City of Atlanta Housing Code:

Relates to unfit buildings, dwellings or structures.

- Buildings/dwellings/structures must meet at least one of the following criteria:
  - Unfit for human habitation or for commercial, industrial or business uses due to dilapidation and not in compliance with applicable codes (including the Atlanta Housing Code and Fire Codes).  
Are vacant, dilapidated dwellings, buildings, or structures in which drug crimes are
  - Unfit for human habitation or for commercial, industrial or business uses due to dilapidation and not in compliance with applicable codes (including the Atlanta Housing Code and Fire Codes).
  - Are vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed
    - Which have other conditions that are unsafe or unsanitary, or dangerous or detrimental to the health, safety or welfare, or otherwise inimical to the welfare of the residents of the city and that public necessity exists for repair, closing, or demolition of such dwellings, buildings, or structures. These conditions can include:
      - Defects increasing hazards of fire, accidents or other calamities
      - Lack of adequate ventilation, light, or sanitary facilities
      - Dilapidation
      - Disrepair
      - Structural defects
      - Uncleanliness
      - Highly hazardous conditions from § 19 of the Atlanta Housing Code



# IN THE COMMUNITY

**“Working Together for ONE ATLANTA”**



# Solicitor's Office Partnerships

We partnered to serve as volunteers and guest speakers at other events throughout the City including Community Appreciation Day and various food distributions.

Date	Partnership/Location
July 2022	<b>7 Events</b> consisting of Food Distribution, Safety and Community Events. <b>Event Sponsors</b> with Councilmembers Michael Bond, Andrea Boone, and Liliana Bakhtiari
August 2022	<b>7 Events</b> consisting of Food Distribution, Safety and Community Events. <b>Event Sponsors</b> with Councilmembers Michael Bond, (8/10/22 event jointly sponsored with Fulton County Commissioner Natalie Hall, Clark Atlanta University Police Department, GA Tech Police Department, Midtown, Shamrock Gardens, and Collier Height Neighborhood Associations
September 2022	<b>7 Events</b> consisting of Food Distribution, Safety and Community Events. <b>Event Sponsors</b> with Councilmembers Michael Bond, Andrea Boone, Dustin Hillis, Antonio Lewis, Bellwood Homes, and Johnnie B. Moore Tower



# Book Bag Giveaways

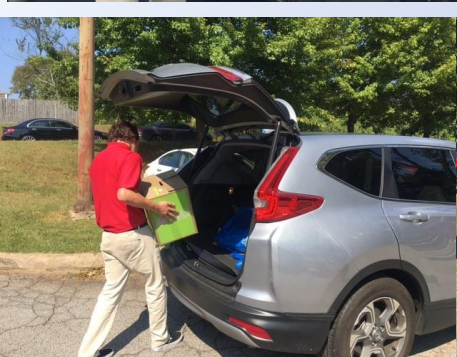
Date	Partnership/Location
July 30, 2022	Maximum Impact Live Book Bag Giveaway Event at Victory Outreach Church





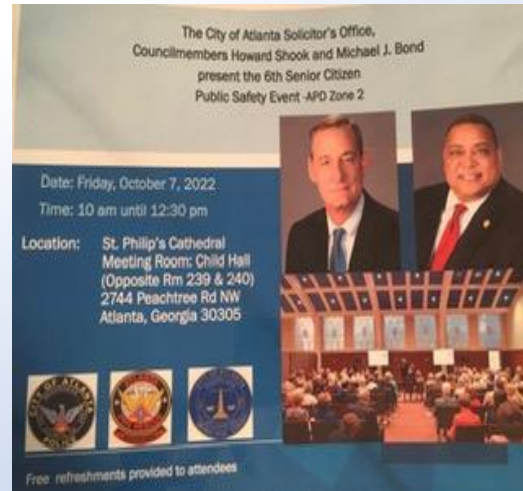
# Community Food Distribution Events

Date	Partnership/Location
August 10, 2022	Councilmember Bond and Fulton County Commissioner Hall Food Distribution Drive at Harriet Darnell Center 677 Fairburn Road N.W
September 14, 2022	Hello Fresh Press Conference & Celebration of 500K Meal Served Milestone with Councilmember Bond
September 21, 2022	Councilmember Bond Food Distribution Drive at Pittman Park 950 Garibaldi Ave. S.E.
September 22, 2022	Councilmember Boon Food Distribution Drive at Jackson Memorial Baptist Church



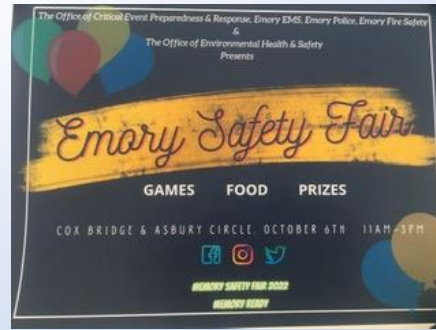
# Senior Citizen Public Safety Events

Date	Partnership/Location
September 23, 2022	5 <sup>th</sup> Senior Citizen Public Safety Even, Zone 1 District 9 with Councilmember Hillis and Councilmember Bond
October 7, 2022	6 <sup>th</sup> Senior Citizen Public Safety Event at St Philips Cathedral - APD Zone 2



# College Campuses Safety Events

Date	Partnership/Location
August 31, 2022	Clark Atlanta University Campus Safety Event
September 27, 2022	Georgia State University Safety Event
October 6, 2022	Emory University Campus Safety Event



# NATIONAL NIGHT OUT

Working Together for ONE ATLANTA  
"WE ARE ALL IN THIS TOGETHER"



# Community Prosecution Outreach Partners

## Working Together For a Safer City



City of Atlanta  
Code Enforcement



***QUESTIONS?***

