



INSTITUTE FOR JUSTICE

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Via Email and USPS

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Re: Denver's Ban on LoDo Food Trucks

To the Denver City Council:

Hello, I am Justin Pearson, a Senior Attorney at the Institute for Justice (IJ). I am writing today to express IJ's concern about Denver's temporary ban on food trucks operating in the LoDo neighborhood.

IJ is a national public interest, civil liberties law firm that advocates in courts, state houses, and city councils to protect the right to earn an honest living. IJ has sued numerous jurisdictions whose laws have impermissibly restricted vendors' right to economic liberty as guaranteed by the U.S. Constitution and the respective state constitutions. IJ also has a long history of working with state and local officials to craft vending laws that ensure the public's health and safety while maximizing opportunities for vendors and consumers alike.

It is IJ's understanding that Denver has temporarily banned food trucks from operating in the LoDo neighborhood on Thursdays, Fridays, and Saturdays, and it is considering making such a ban permanent. Although recent violence in the neighborhood supposedly motivates this ban, it is undisputed that food trucks had nothing to do with the violence. Moreover, Denver's ban selectively targets food-truck owners while allowing other LoDo businesses to remain open.

Consequently, the ban suffers from two major defects. First, it is bad policy. Second, it may also be unconstitutional.

First, the ban is bad policy. It is misguided to punish certain small-business owners who had nothing to do with the problem while allowing others to remain open. Worse, if the concern is public safety, then banning food trucks is counterproductive. [A 2012 study](#), conducted by IJ, found that food trucks actually "serve as eyes on the street and make the street a safer, more enjoyable place to visit. Their presence can help prevent crime and revitalize underused public spaces." In other words, banning food trucks from an area makes that area less safe, not more.

Second, Denver's ban raises a host of constitutional concerns, ranging from equal protection to arbitrary enforcement. After all, the city is banning certain law-abiding businesses (food trucks) from operating while allowing other law-abiding businesses (brick-and-mortar businesses) to remain open. There is no constitutionally legitimate reason for this discriminatory treatment. Instead, the city's government appears to be using the LoDo issue as a pretext to target the least-powerful members of the business community. But discriminating against vendors for no good reason violates numerous provisions in both the U.S. and Colorado Constitutions.

The solution is to repeal the ban, and the Institute for Justice calls on you to do so. While considering this request, please remember that a vibrant food truck industry benefits everyone. Food trucks put people to work, create opportunities for self-sufficiency, and enrich the communities in which they operate. Moreover, the presence of food trucks boosts local businesses—including restaurants. And they make communities safer places.

The Institute for Justice stands ready to help you revise your ordinances to improve public safety, increase consumer choice, and expand economic opportunity. Please feel free to contact me if you have questions or would like to discuss IJ's model [legislation](#). In addition to the telephone number listed on this letterhead, you are welcome to email me at JPearson@IJ.org. Together, we can work to ensure that all of the city's entrepreneurs are allowed the opportunity to thrive and succeed. Thank you.

Very truly yours,



Justin Pearson