



INSTITUTE FOR JUSTICE

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Via Email and USPS

Norwood City Council and Small Business & Economic Development Committee
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Re: Norwood's Protectionist Discussions Regarding Food Trucks

To Mayor Schneider, the Norwood City Council, and the Norwood Small Business & Economic Development Committee:

Hello, I am Justin Pearson, a Senior Attorney at the Institute for Justice (IJ). I am writing today to express IJ's concern about the troubling discussions at Norwood's City Council and Small Business & Economic Development Committee meetings regarding a possible ban on property owners' right to invite food trucks onto their own properties.

As you may recall from when IJ defeated your city's government at the Ohio Supreme Court in the property rights case *City of Norwood v. Horney, et al.*, 110 Ohio St.3d 353 (Ohio 2006), IJ is a national public interest, civil liberties law firm that advocates in courts, state houses, and city councils to protect property rights, economic liberty, and other rights. IJ has victoriously sued jurisdictions across the nation, and this past term we argued our twelfth United States Supreme Court case, which we won. *See DeVillier, et al., v. Texas*, 144 S.Ct. 938 (2024). 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, property owners, and consumers alike.

The possible ban discussed by your City Council and by your Small Business & Economic Development Committee would suffer from two major defects. First, the ban would be bad policy. Second, the ban may also be unconstitutional.

First, the idea that Norwood's property owners should be banned from inviting food trucks onto their own properties to "level the playing" field with brick-and-mortar restaurants is incorrect as a matter of policy.

Food trucks do *not* hurt restaurants. To the contrary, [a 2022 study](#), conducted by IJ, found that "more food trucks today do *not* lead to fewer restaurants tomorrow." Instead, "far from harming the restaurant industry, food trucks can complement it. Growth in the number of food trucks goes hand in hand with growth in the number of restaurants." Among other reasons, this is because food trucks tend to attract customers from outside of an area to visit the area, the effects of which benefit the entire area, including the restaurants. Indeed, some observant folks at your meetings pointed out that this very phenomenon is currently happening in Norwood. In other words, if you want to help your brick-and-mortar restaurants, you should want more food trucks, not fewer.

Banning food trucks could also harm public safety. [Another IJ study](#), published in 2012, found that the presence of food trucks “can help prevent crime and revitalize underused public spaces.” In other words, removing these “eyes on the street” from an area not only makes the area less prosperous but less safe too. And again, the positive correlation between food trucks and reduced crime in Norwood was mentioned by the public during your meetings. Much like with helping brick-and-mortar businesses, if you want to make Norwood safer too, you should want more food trucks.

Second, these restrictions would likely raise a host of constitutional concerns. The U.S. Supreme Court has expressly held that economic protectionism violates the U.S. Constitution. *See Metro. Life Ins. Co. v. Ward*, 470 U.S. 869, 877–83 (1985). And Ohio courts, to their credit, have a long history of ruling that unreasonable restrictions on competition violate the Ohio Constitution, *see City of Cincinnati v. Correll*, 49 N.E.2d 412 (Ohio 1943), including in a remarkably similar situation involving ice cream trucks, *see Frecker v. City of Dayton*, 85 N.E.2d 419 (Ohio Ct. App. 1949).

Rather than restricting food trucks, the city government should 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.

IJ 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 the city’s entrepreneurs and property owners are allowed the opportunity to thrive and succeed. Thank you.

Very truly yours,



Justin Pearson