



INSTITUTE FOR JUSTICE

November 2, 2023

Via Email and USPS

Parksley Mayor Frank A. Russell
Parksley Town Council Members Ricky Taylor, Sam Welch, Jan Welch, Henry
Nicholson, Brad York, and Mark Layne
18444 Dunne Avenue, Parksley, Virginia 23421
town@parksley.org

Re: Parksley's Ban on Food Trucks

To Mayor Russell and the Parksley Town Council:

We are attorneys from the Institute for Justice (IJ) writing to express IJ's concern about Parksley's near-total ban on food trucks.

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 Parksley only allows food trucks to operate during temporary festivals and special events. In all other situations, food trucks are forbidden. It appears that the food truck ban stems from a desire to protect (and attract) brick-and-mortar restaurants.

But the ban suffers from two major defects: First, it is bad policy. And second, it may also be unconstitutional.

First, the ban is bad policy. It is misguided to punish certain small-business owners just to protect the economic interests of others. And banning food trucks will not attract brick-and-mortar stores. [A 2022 study](#), conducted by IJ, found that "more food trucks today do *not* lead to fewer restaurants tomorrow." To the contrary, "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. And bringing new customers into an area benefits all its businesses, including its restaurants. 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." Taken together, these studies show that banning

food trucks from an area makes the area less safe and drives out small businesses with no economic upside.

Second, Parksley's food truck ban raises a host of constitutional concerns. After all, the town is banning certain law-abiding businesses (food trucks) from operating while allowing other law-abiding businesses (brick-and-mortar restaurants) to remain open. There is no constitutionally legitimate reason for this discriminatory treatment. Instead, the town's government appears to be targeting the least-powerful members of the business community in a misguided attempt to enrich established restaurants. But this type of economic protectionism violates both the U.S. and Virginia Constitutions. *See Metro. Life Ins. Co. v. Ward*, 470 U.S. 869, 877–83 (1985); *Benderson Dev. Co. v. Sciortino*, 372 S.E.2d 751, 756 (Va. 1988).

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.

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 us 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 us. Together, we can work to ensure that all Parksley's entrepreneurs are allowed the opportunity to thrive and succeed. Thank you.

Sincerely,



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