



INSTITUTE FOR JUSTICE

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Via Email and USPS

Statesboro Mayor and City Council
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Re: Statesboro's Protectionist Food Truck Ordinance

To Mayor McCollar and City Councilmembers:

Hello, we are Justin Pearson and An Altik, two attorneys at the Institute for Justice (IJ). We are writing today to express IJ's concern about Statesboro's food truck ordinance. The ordinance currently bans food trucks from operating within 200 feet of any brick-and-mortar restaurant unless the food truck is owned by a restaurant or the food truck owner obtains permission from every restaurant within that radius. The arbitrary distance and its exceptions each demonstrate that the ban has no constitutionally legitimate purpose. Instead, the ban merely serves as an unconstitutional barrier designed to benefit brick-and-mortar restaurants at the expense of food truck operators, all while depriving the public of food options.

IJ is a national public interest, civil liberties law firm that advocates in courts, statehouses, and city councils to protect the right to earn an honest living. IJ has victoriously sued jurisdictions across the nation on behalf of small-business owners, including food truck owners. Our court victories have helped aspiring entrepreneurs to start food trucks and provide more food choices to the public. 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 entrepreneurs, property owners, and consumers alike.

Statesboro's current food truck permit requirements are not only unconstitutional but simply put—they are bad policy.

First, these restrictions would raise a host of constitutional concerns. The Georgia Supreme Court recently explained—in a case won by IJ—that the Georgia Constitution protects the “right to work in one's chosen profession free from unreasonable government interference” and provides stronger protection for this right than its federal counterpart. *See Jackson v. Raffensperger*, 308 Ga. 736, 737 (2020). Moreover, under the federal precedent, 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). This is especially true when one group—brick-and-mortar restaurants—have more lenient requirements than another—food trucks—even though they are selling

similar items. Therefore, under either the state or federal test, Statesboro’s 200 foot ban is likely unconstitutional.

Second, the ban is bad policy. This is because 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, “[g]rowth 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*. In other words, if you want to help your brick-and-mortar restaurants, then you should want more food trucks, not fewer.

Rather than restricting food trucks, your 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 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 either of us at JPearson@IJ.org or AAltik@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



An Altik