

Food Trucks in Wisconsin: The (Regulated) Open Road

By Attorney Paul Mirr – Ruder Ware, L.L.S.C.



In recent years, food trucks have emerged as an increasingly popular way for people of all ages to indulge in their favorite street foods, from barbeque to shaved ice to pizza to tacos...and on and on. One of the benefits of owning a food truck is that the startup costs are generally much lower than starting up a traditional restaurant. If you are thinking about starting up a food truck of your own, pump the brakes: below are some issues to consider before you jump into the driver's seat (don't worry: that was the last bad pun in this article).

State Regulations. All food trucks in Wisconsin must comply with the Wisconsin Food Code requirements for Restaurants or Retail Food Establishments. In general, the Wisconsin Food Code requires all food trucks, or technically "mobile food establishments", to obtain a mobile food establishment license and a service base license, in addition to any permits or licenses required by a specific municipality (for example, if you plan on operating in the City of Eau Claire, you will also need to obtain a restaurant license from the City and have your food truck pass inspection by the Eau Claire Fire Department – more on municipal requirements below). A service base is "an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food." Wisconsin Food Code 1-201.10(B)(84). In essence, the service base is a licensed facility where food for the mobile food establishment is stored or prepared, where water is obtained and waste is disposed, and where vehicle and equipment cleaning takes place. Food trucks must return to their service bases at least once every 24 hours. Note that service bases cannot be a private home; instead, they must be a warehouse or commercial space, a shared space from a licensed restaurant or retail establishment, or a shared space from a licensable community kitchen.

The Wisconsin Food Code also requires that all mobile food establishments that prepare, handle or serve unpackaged meals have a Certified Food Manager's license. Additionally, the Code places very specific

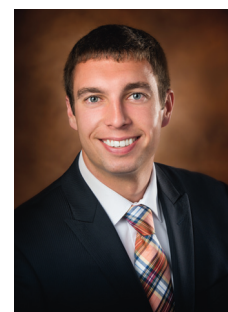
and differing restrictions or requirements on mobile food establishments based upon whether the establishment is "open air" (i.e., bicycle or push carts), "enclosed limited service" (i.e., small enclosed trailer), or "enclosed full service" (i.e., large truck or trailer with full kitchen). Such restrictions or requirements include the minimum size of required hand washing facilities; ventilation system standards; minimum required fresh water supply; minimum size of waste storage tank(s); the types of equipment allowed or required inside the food truck; electric or gas supply requirements; floor and wall finishes and lighting standards; and fire protection requirements.

In addition to the requirements contained in the Wisconsin Food Code, food truck operators will need to obtain a Seller's Permit from the Wisconsin Department of Revenue before serving any food. Also, all licenses must be posted on the food truck for the public to view.

Local Municipal Rules/Ordinances. In addition to the State of Wisconsin's food truck requirements, several municipalities are beginning to pass food truck ordinances to regulate food trucks operating within the municipality's limits. For example, the City of Eau Claire's food truck ordinance restricts several things, such as a food truck's hours of operation (8am-11pm), locations food trucks may operate (i.e., no residential neighborhoods, must be 200 feet away from existing brick-and-mortar restaurants, and cannot stay in one location for more than a four hour stretch), and describes certain public parks in which food trucks operate (unless a special event is occurring at such parks). The Eau Claire ordinance

also contains insurance requirements, and provides that food trucks must not show any visible signs of rust or deterioration. The City of Altoona's food truck ordinance also restricts locations food trucks may operate, and allows food trucks to operate between the hours of 7am-10pm Friday-Saturday, and 10am-9pm Sunday-Thursday. The City of Hudson restricts food trucks from operating on City-owned property or within the public right of way unless the use is authored as party of a temporary special event, and the food truck must not make or cause to be made any excessive noise, lighting or other method of attracting public attention.

Moral of the story: make sure to check with each local municipality to determine whether a food truck ordinance or regulations exist, and if so, make sure your food truck operation is in compliance with all local requirements, in addition to the State of Wisconsin's requirements. The good news is that most of these items will be available on your municipality's website. Finally, don't forget that most municipal licenses must be annually renewed.



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