

City of
Fitchburg, WI

COUNCIL PROPOSED AMENDMENTS 2026 BUDGET

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**City of Fitchburg
Summary of Council Proposed Amendments
2026 Budget**

#	Sponsor	Description	Original Amount	GENERAL FUND			TRANSIT	CAPITAL PROJECTS		OTHER
				Impact on Expend (ERP)	Levy Impact	Fund Balance Applied	Levy/ERP Impact	Levy/ERP Impact	Debt Proceeds	TID Closure
Council Amendments (see amendment forms for detail by account number)										
1	Herbst	Remove Communications Funding	\$ (100,000)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (100,000)
2	LaDousa	Add AED to McGaw Park Pickleball Courts	\$ 3,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,000
3	Maldonado & Dantzer Jr.	Add a Fitchburg Youth Commission	\$ 2,602	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,602
4	Maldonado & Gerhardt	Add Alder Blogs	\$ 100	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100
Omnibus Detail										
A	Adjust Transfer Out of Fund Balance (ERIP Strategy)		TBD	TBD	\$ -	TBD	\$ -	\$ -	\$ -	\$ -
TOTAL AMENDMENTS			\$ (94,298)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (94,298)

EXPENDITURE RESTRAINT INCENTIVE PROGRAM (ERIP) COMPLIANCE

CPI (increase from 9/1 - 8/31) 2.7% final per DOR
 Net new construction 2.589% final per DOR
 Allowed expenditures for expenditure restraint \$ 42,401,646 final per DOR

	Amount	(Over)/Under Allowed Limit
Mayor's proposed budget (w/o omnibus)	\$ 37,012,448	\$ 5,389,198 (a)
Mayor's proposed budget (w/ omnibus)	TBD	TBD
Budget with Council amendments (as proposed) - Note: includes duplicates, if any (a) adjustment to be made with Omnibus amendment	\$ 37,012,448	\$ 5,389,198 (a)

PROPERTY TAX LEVY/RATE

Total assessed value \$6,433,947,900 final per DOR
 Total equalized value (TID in) \$6,702,037,100 final per DOR
 Total equalized value (TID out) \$6,285,547,800 final per DOR
 Average home value \$504,700
 Last year's assessed value tax rate \$5.7969
 Last year's average home city portion tax bill \$2,654
 Total allowed levy per levy limit imposed by State (Mayor's Budget) \$32,726,789 *estimate 10/16/25

	Property Tax Levy	City Share TID Increment	Estimated AV Tax Rate	City Share Taxes on Avg Home	Change from PY on Avg Home	Available Levy Limit
Mayor's proposed budget (w/o omnibus)	\$ 32,726,746	\$ 2,168,522	\$5.42	\$ 2,737	\$ 83	\$43
Mayor's proposed budget (w/ omnibus)	\$ 32,726,746	\$ 2,168,522	\$5.42	\$ 2,737	\$ 83	\$43
Budget with Council amendments (as proposed) - Note: includes duplicates, if any	\$ 32,726,746	\$ 2,168,522	\$5.42	\$ 2,737	\$ 83	\$43



Administrative Offices

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Phone: (608) 270-4200
Fax: (608) 270-4212
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To:	Common Council
From:	Chad Brecklin, City Administrator Adam Sayre, Deputy City Administrator
Date:	October 21, 2025
Subject:	Council Budget Amendment #2 – McGaw Pickleball Courts AED

Alder LaDousa submitted a 2026 budget amendment to add an automated external defibrillator (AED) to the McGaw pickleball courts at a cost of \$3,000 from TID closure funds.

While an AED may be appropriate for installation in a park, this matter is a larger policy discussion related to our entire parks system. If an AED is installed in McGaw, will other AEDs be expected and/or required in other parks? How will it be determined which parks will have an AED installed? Further, if those AEDs are required, how will those be funded, maintained and ultimately replaced when reaching end of life? The \$3,000 cost at McGaw is less than other locations as power is readily available at the pickleball courts. If that power wasn't there, the cost would be higher.

Fitchrona EMS presently monitors and checks our in-building devices. As more AEDs are added, we'll need to determine who will be checking and maintaining them to ensure they are operating and equipped as expected. The batteries typically need to be replaced every 4-years and the pads last 2-3 years. The pads also need to be replaced each time they are used or missing.

Staff has previously discussed the AED with the McGaw pickleball players and has suggested to their representatives they should fundraise/donate the AED as the City budgets remain tight. Staff has concerns with placing an AED at the pickleball courts instead of the covered shelter. The covered shelter is at the center of the park and is the most logical location for a person with an emergency to look for an AED. Further, other events and activities occur in the park besides pickleball including youth football, softball, volleyball, and general gatherings under the shelter. If this amendment moves forward, at a minimum Staff recommend placing the AED at the shelter versus the pickleball courts.

Finance Director's Notes:

The cost assumes 8 meetings for an average of 2 hours in the first year with one of the paid members under the existing per diem policy being the chair. The cost also assumes FACTv LTE staff time to tape and process the meetings. The time spent by permanent staff is assumed to be absorbed within existing workloads. The additional cost for operating the building during the meetings is not included.

****The use of one-time funds for an on-going cost is a structural deficit****

Account #	Account Name	Amount of Amendment	
100-5110-145	Mayor/Council – Per Diems	+	\$1,680
100-5110-325	Mayor/Council – Training & Travel	+	\$500
100-5570-120	FACTv LTE wages	+	\$392
100-5570-131	FACTv FICA	+	\$30
	Subtotal Expenditure Change	+	\$2,602
230-4930-230	TID Closure Fund – Fund Balance Applied	+	\$2,602
	Subtotal Revenue Change	+	\$2,602
230-5920-100	TID Closure Fund – Transfer to General Fund	+	\$2,602
100-4922-229	General Fund – Transfer from TID Closure Fund	+	\$2,602
	Subtotal Transfers Accounting	n/a	\$-0-



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To:	Common Council
From:	Chad Brecklin, City Administrator Adam Sayre, Deputy City Administrator
Date:	October 21, 2025
Subject:	Council Budget Amendment #3 – Youth Commission

Alder Maldonado and Alder Dantzler Jr. submitted a 2026 budget amendment to create a Youth Commission. The City presently has 24 boards and commissions with some meeting more frequently than others. Each board and commission has a dedicated staff person to assist the commission with creating the agenda, compiling the agenda items, prepping for the meeting, drafting the meeting minutes, and coordinating with members of the commission or from the public. Due to existing and anticipated staffing capacity concerns as shared with our community through the recently failed referendum, the creation of additional committees, subcommittees, or groups will impact staff time and likely require the reprioritization of existing duties. Due to these challenges, staff suggests the following alternatives and other considerations:

- Consider adding youth to existing committees and commissions. Aligning youth with engaged adults on existing committees could help guide them and prepare them for future civic engagement. Further, this alternative eliminates the capacity concern from staff.
- If the Youth Commission moves forward, the Commission could be Ad-Hoc to reduce the impact on FACTv. Further, Ad-Hoc would allow the Commission to define their role and responsibilities, as it is currently unclear what the intended roles and responsibilities of this committee are. While this alternative would reduce the impact to FACTv, it would still need to be staffed.
- If the Youth Commission moves forward, consideration could be given to reducing and/or consolidating the number of existing boards and commissions to reduce the impact on staff capacity.
- Other considerations related to this amendment:
 - The use of one-time funds, while a small amount, to pay for on-going costs is effectively a structural deficit and not recommended.
 - Per diem payments for committee and board involvement are intended to cover the cost of participating in the meetings and provision of ride share and/or meals appears to be duplicative of the intent of per diems.
 - If ride share and/or meals are provided for one commission, will it need to be extended to all other boards and commissions? If so, this could create a significant financial impact.
 - Reimbursements for ride share and/or meals creates an administrative burden to obtain receipts and process payments.
 - Would guidelines need to be established related to allowable cost of ride share and/or meal reimbursements?
 - Would the city be exposed to liability stemming from a negative ride share experience?



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To:	Common Council
From:	Chad Brecklin, City Administrator Adam Sayre, Deputy City Administrator
Date:	October 21, 2025
Subject:	Council Budget Amendment #4 – Alderperson Blogs

Alder Maldonado and Alder Gerhardt submitted a 2026 budget amendment to add Alderperson blogs to the City website to increase Alder engagement. Staff has briefly discussed this item with Alder Maldonado and explained there most likely isn't a budget impact for this request as the City's website likely has the capabilities to create a blog or newsflash for Alders and the staff time would need to be absorbed within existing duties.

While the functionality of the proposed Alderperson blogs has yet to be determined, staff has been directed to the current Alderperson blogs on the City of Madison website as an example. Staff has learned from staff at the City of Madison that content for the Alderperson blogs is created by city staff and allows for people to receive notification of content being added.

Staff is concerned and uncertain with the idea to use city staff and taxpayer funded resources (website and associated costs) to create and host Alderperson blogs. This is due to the Wisconsin Ethics Commission opinion to the City of Madison relating to the 50-piece rule in State Statutes. The Wisconsin Ethics Commission opined the City of Madison Alderperson blogs, as implemented, are in violation of the 50-piece rule. If the Council decides to implement this item, using it during a campaign period could be challenged and an Alderperson could be found in violation of the 50-piece rule, a campaign finance/use of government funds by candidates provision. Additionally, this places staff in an uncomfortable position to create the content and use city resources contrary to the opinion of the Wisconsin Ethics Commission.

The City is in the process of completing a communication plan that will help identify strategies for improving Citywide communications. Staff is hesitant to suggest different communications strategies prior to the plan being completed. Alderperson blogs are not recommended in the draft plan, however a City e-newsletter is recommended. An e-newsletter would likely contain similar information that would be created by staff for Alderperson blogs content. Due to limited staff resources, we need to be intentional about where our communication efforts are directed.



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
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Sent via email only to: MHaas@cityofmadison.com

December 30, 2020

(Revised by the Wisconsin Ethics Commission on February 23, 2021)

Mr. Michael Haas, City Attorney
City of Madison
210 Martin Luther King, Jr. Blvd.
Room 401
Madison, WI 53703

Re: Application of 50 Piece Rule to City Alders' Communications

Dear City Attorney Haas,

Thank you for your inquiry concerning application of [WIS. STAT. § 11.1205](#) (herein referred to as the "50 Piece Rule"). You inquire on behalf of members of the City of Madison Common Council concerning application of the 50 Piece Rule to specific practices of the City and members of the Council. You advise that the City's official website hosts blogs for each Alder that they can individually update. Further, to promote and simplify outreach to residents, individuals may register to receive updates to Alders' blogs when new information is posted. An email is generated on behalf of the Alder automatically through the City's IT Department and sent to individuals from the Alder's email account. You advise that the Alder does not have any involvement in or take any action to activate or send the update email. Public funds are used to host and maintain the City's website and to generate and send the email notifications.

Additionally, you request guidance regarding use of postcards used to invite residents to neighborhood meetings to discuss and gather feedback regarding specific matters of City business. You provide the following examples: property development proposals, shootings or other public safety issues, traffic issues, and proposed liquor licenses. Against this backdrop, you ask for guidance on 5 questions. Those questions will be quoted and addressed below.

Applicable Law

Your inquiry implicates the 50 Piece Rule in [WIS. STAT. § 11.1205](#), which provides:

(1)

(a) Except as provided in sub. (2), no person elected to state or local office who becomes a candidate for national, state, or local office may use public funds for the cost of materials or distribution for 50 or more pieces of substantially identical material distributed after:

1. In the case of a candidate who is nominated by nomination papers, the first day authorized by law for circulation of nomination papers as a candidate.

Wisconsin Ethics Commissioners

Paul Connell | Mac Davis | David R. Halbrooks | Scot Ross | Pat Strachota | Timothy Van Akkeren

Administrator
Daniel A. Carlton, Jr.

2. In the case of a candidate who is nominated at a primary election by write-in votes, the day the board of canvassers issues its determination that the person is nominated.

3. In the case of a candidate who is nominated at a caucus, the date of the caucus.

4. In the case of any other candidate who is nominated solely by filing a declaration of candidacy, the first day of the month preceding the month which includes the last day for filing the declaration.

(b) This subsection applies until after the date of the election or after the date of the primary election if the person appears as a candidate on a primary election ballot and is not nominated at the primary election.

(2) This section does not apply to use of public funds for the costs of the following:

(a) Answers to communications of constituents.

(b) Actions taken by a state or local government administrative officer pursuant to a specific law, ordinance or resolution which authorizes or directs the actions to be taken.

(c) Communications between members of the legislature regarding the legislative or deliberative process while the legislature is in session.

(d) Communications not exceeding 500 pieces by members of the legislature relating solely to the subject matter of a special session or extraordinary session, made during the period between the date that the session is called or scheduled and 14 days after adjournment of the session.

The 50 Piece Rule prohibits a state or local officeholder who becomes a candidate for national, state, or local office from using public funds for the cost of materials or distribution of 50 or more pieces of substantially identical material. Aside from the question of whether each separate piece is substantially identical, the 50 Piece Rule is silent about the contents of the communication. Thus, the 50 Piece Rule is content neutral. *See* [2020 ETH 03](#). It does not limit only certain types of communications nor does its application depend on whether an individual is identified. It simply prohibits using public funds for cost of materials or distribution of 50 or more pieces of substantially identical material.

The 50 Piece Rule applies only during a specified period where candidates are actively seeking office. The 50 Piece Rule applies to materials distributed between the point the candidate is nominated as described in the statute until after the election. If the candidate is not successful at the primary, the 50 Piece Rule does not apply after the primary unless the candidate is running as a write in. The 50 Piece Rule does not apply to answers of communications of constituents; actions taken by a state or local government administrative officer pursuant to a specific law, ordinance, or resolution which authorizes or directs the actions be taken; and certain communications by members of the Wisconsin Legislature.

The Commission has issued several formal opinions about applicability of the 50 Piece Rule. In [2018 ETH 03](#), the Commission addressed whether the 50 Piece Rule applies to agency materials and discussed its application to social media communications. In the context of agency materials, the Commission opined that materials that are authorized or directed by a person subject to the 50 Piece Rule must meet an exception to be permissible. The Commission noted that some communications are done by individuals not subject to the 50 Piece Rule and done without involvement of covered officials. These communications would presumably be permissible. Finally, the opinion discussed how to account for social media

communications under the 50 Piece Rule. In [2020 ETH 01](#), the Commission answered a wide variety of questions concerning permissible activities in the context of legislative staff. Finally, in [2020 ETH 03](#), the Commission advised that the exception for answers to communications from constituents applies to allow a legislator to respond to each signer of a petition deliver to the legislators office. However, the Commission also opined that a legislator could not purchase ads to be printed in a newspaper if 50 or more copies of the newspaper were to be published.

Analysis

You have advised that the first day to circulate nomination papers for election to some seats on the Common Council for the spring election has already passed. So, an Alder running for reelection may not use public funds to pay for materials or distribution of 50 or more substantially identical pieces distributed until after the spring election (unless the Alder loses at the spring primary). The only two exceptions that may apply are the exception for answers to communications of constituents and the exception for actions taken by a state or local government administrative officer pursuant to a specific law, ordinance or resolution which authorizes or directs the actions to be taken. As no such law, ordinance, or resolution currently exists, the exception for communications by an administrative officer does not currently apply.

With that general statement of the application of the 50 Piece Rule to Madison Alders in mind, your questions will be answered seriatim.

1. Because the blog email notification has been requested by individual residents and is generated and sent without the Alder’s involvement, can notifications continue during the campaign period and comply with the 50 Piece Rule? If not, can the email notification comply with s. 11.1205 with different wording that does not mention the Alder’s name but includes a generic invitation to view updates to Alder blogs?

As noted above, the 50 Piece Rule is content neutral. Its application does not depend upon use of particular words or phrases. Rather, it looks to whether each individual piece is substantially identical to each other. As the first day to circulate nomination papers has occurred, the question is whether an Alder is using public funds for the costs of materials or distribution of substantially identical material. If the answer to this question is yes, the question then becomes whether the exception for answers to communications from constituents applies.

You have indicated that the City hosts the blog sites and City IT resources are used to distribute email notifications that a new blog has been posted. Based on your description, it appears that the system produces and sends identical notifications to each constituent that has requested them. This is a standing subscription. Constituents get these email notifications when blogs are updated until they unsubscribe. This question does not contemplate the scenario where there is a direct request for a particular post or notification and the Alder or Alder’s staff is responding to that direct communication.

Reviewing the City’s website, it appears that not all of the Alders use this blog function and its automatic update notification feature. Rather, it appears each Alder decides whether to blog and, if so, that blog is added to his/her official page. Clearly, by choosing to use the blog and update notification feature, there is a use of public funds by an Alder who blogs. The automatic update notification distributes substantially

identical communications. Such communications are not “passive” as that term has been used in its precedent. [2018 ETH 03](#) states that a “passive” communication is one which “is published in a singular form but may be read by multiple individuals such as a website, Facebook post, or tweet.” This request concerns multiple notification emails being sent directly to recipients. So, to the extent that 50 or more automatic update notifications are sent, the automatic blog update notifications would be prohibited unless an exception applies.

The only exception implicated is the exception for answers to communications of constituents. The Commission declined to apply that exception in these circumstances. Therefore, when subject to the 50 Piece Rule, automatic blog updates may not be sent.

2. If the Council passed an ordinance or resolution requiring City staff to send the email notifications, would that comply with the exception in WIS. STAT. § 11.1205(2)(b)?

This question concerns the second exception that could apply to the blog update notifications. This exception allows use of public funds for the cost of materials or distribution of 50 or more pieces of substantially identical material if the actions are taken by a state or local government administrative officer pursuant to a specific law, ordinance, or resolution which authorizes or directs the actions to be taken. Restated more clearly, if a law, ordinance, or resolution authorizes or directs a City administrative officer to use public funds for materials or distribution of those communications, the 50 Piece Rule would not apply. This statutory exception is narrower than the articulation in your question. Your question describes the potential ordinance or resolution as “requiring City staff to send” the communications. By its terms, this exception only applies to actions taken by administrative officers. So, an ordinance or resolution directing “City staff” to send these notifications would not be sufficient for application of the exception.

This question implicates the 50 Piece Rule and [WIS. STAT. § 19.59\(1\)\(c\)](#). It also implicates the longstanding precedent of the Commission and its predecessors is that an official cannot do indirectly that which the official is prohibited from doing directly. The Commission declined to opine at this time whether passage of such an ordinance or resolution would render the communications permissible.

3. Similarly, regarding postcard invitations for neighborhood meetings regarding specific City issues and matters, would mailings to 50 or more individuals violate s. 11.1205 if they list an Alder as the host of the meeting? If the language is altered to invite residents to a City-hosted meeting but the postcard does not mention the Alder hosting the event, would such a postcard be in compliance with the 50 Piece Rule? If the Council passed an ordinance or resolution requiring City staff to send the postcard invitations, would that comply with the exception in WIS. STAT. § 11.1205(2)(b)?

Regardless of the content and whether a postcard invitation identifies an Alder as the host, an Alder’s use of City resources for materials or distribution of 50 or more substantially identical postcard invitations would violate the 50 Piece Rule. As noted above, the 50 Piece Rule is content neutral. Further, the Legislature did not include an exception for matters of public import beyond the limited exception for its members when a special or extraordinary session is occurring. Assuming the postcard invitations are

substantially identical, an Alder subject to the 50 Piece Rule is prohibited from using public funds for their production and/or distribution.

It is important to note that these are not answers to communications of constituents and you have not inquired about the applicability of that exception. However, you did inquire about the applicability of the exception in [WIS. STAT. § 11.1205\(2\)\(b\)](#). As noted in the discussion of this exception in question 2, this question implicates the 50 Piece Rule and [WIS. STAT. § 19.59\(1\)\(c\)](#). It also implicates the longstanding precedent of the Commission and its predecessors is that an official cannot do indirectly that which the official is prohibited from doing directly. The Commission declined to opine at this time whether passage of such an ordinance or resolution would render the communications permissible.

4. Given the statute’s focus on the use of public funds, would the guidance regarding the above questions be affected if an Alder used personal or campaign funds to reimburse the City’s costs?

You are correct that the statute prohibits use of public funds to pay for materials and distribution of 50 or more pieces of substantially identical material. Additionally, your understanding that an Alder can use personal or campaign funds to directly pay for the costs of such communications is also correct. The Commission declined to say that reimbursement is permissible. Therefore, reimbursement should not be considered an appropriate approach. Any communications that would be subject to the 50 Piece Rule would need to be paid directly from the Alder’s personal or campaign funds.

5. City policies request property developers to pay the cost of postage for postcard invitations to neighborhood meetings related to project proposals, but not printing costs. The postcards list the Alder hosting the meeting. Could such mailings be sent during the campaign period in compliance with the 50 Piece Rule if the City required the developer to pay all costs of such mailing? Is there a difference if the City Planning Department sends out the postcard invitation and the postcard lists the Alder hosting the meeting? Or if the postcard includes details of the meeting but does not list the Alder hosting the meeting?

As noted above, the 50 Piece Rule is content neutral. Whether the postcard identifies the hosting Alder is immaterial. An Alder is prohibited from using public funds to produce or distribute 50 or more pieces of substantially identical material during the period in which the 50 Piece Rule applies. Therefore, the Alder could not use public funds to have these postcards produced or distributed. Longstanding precedent of the Commission and its predecessors has held that officials may not do indirectly that which they are prohibited from doing directly. This rationale has been applied in the context of the 50 Piece Rule before. See [2018 ETH 03](#). So, an Alder may not direct staff or other City officials to produce or distribute any communications that would violate the 50 Piece Rule were the Alder to do so directly.

The question now turns to whether a developer can be requested or required to reimburse the City for costs of production or distribution of these communications. At the Commission meeting on February 23, 2021, you indicated that City resources would be used to pay for the production or distribution of these postcard invitations. Regardless of whether reimbursement was optional or mandatory, there would be a use of public funds to pay for the postcard invitation and its distribution. As the Alder decides whether to have a neighborhood meeting, that use is rightly attributable to the Alder. If 50 or more substantially identical

material were produced or distributed, a violation would occur. As discussed above, the precedent is clear that an Alder cannot do indirectly that which the Alder cannot do directly. This is what is contemplated here. Therefore, a violation of the 50 Piece Rule cannot be avoided by requesting or requiring the developer to reimburse the City for costs of production or distribution.

Conclusion

It is permissible for an Alder to use personal funds or candidate committee funds to directly pay for communications. However, while subject to the 50 Piece Rule, an Alder may not use public funds for any communications, including those communications described herein, unless an exception applies. Currently, the only applicable exception is the one for answers to communications from constituents. Unless that exception applies, an Alder that is subject to the 50 Piece Rule cannot use public funds for production or distribution of 50 or more pieces of substantially identical material and then reimburse the City for those costs. The 50 Piece Rule applies where the Alder requests or directs another to use public funds for the production of 50 or more substantially identical material. The Commission specifically determined that automatic blog update notifications may not be sent while an Alder is subject to the 50 Piece Rule and that, even if a developer reimbursed the City for the costs of production or distribution of postcard invitations during the period in which the 50 Piece Rule applies, a violation of the 50 Piece Rule would occur.

It is important to note that this opinion does not restrict the ability of City personnel or officials who are not subject to the 50 Piece Rule to communicate on matters of public import where an Alder subject to the 50 Piece Rule has not been involved in determining whether a communication will be made, deciding the content of that material, or involved in the distribution of the materials. Where there is no involvement by an Alder subject to the 50 Piece Rule, those communications are permissible.

This informal opinion revises the informal opinion issued by the Administrator on December 30, 2020. That informal opinion is hereby withdrawn and replaced with this revised guidance. Pursuant to [WIS. STAT. § 19.46\(2\)\(a\)4.](#), no person acting after the date of this revised opinion is exempted from prosecution if the opinion upon which the person's action is based has been revised in relevant degree. Therefore, no person should rely on the informal opinion issued by the Administrator on December 30, 2020.

This letter constitutes an informal opinion of the Ethics Commission as authorized by [WIS. STAT. § 19.46\(2\)](#). No person acting in good faith upon this opinion is subject to criminal or civil prosecution for so acting if the material facts are as stated in the opinion request and the individual is following the advice provided above.

If you have any further questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Carlton, Jr.", with a horizontal flourish extending to the right.

Daniel Carlton, Jr.
Commission Administrator
Wisconsin Ethics Commission

Boxes All Checked? Beware of the 50 Piece Rule!



The 50 Piece Rule refers to a provision in Wisconsin's campaign finance law that prohibits a local elected official who becomes a candidate for any office from using *public funds* to pay the cost of materials or distribution for 50 or more pieces of substantially identical material during the campaign period. See Wis. Stat. § 11.1205. According to Guidance from the Wisconsin Ethics Commission, ETH-1251, this rule is sometimes also referred to as the 49 Piece Rule, because it allows for the distribution of up to 49 pieces of substantially identical materials with the 50th piece being a violation of the law.

The 50 Piece Rule regulates conduct by current officeholders and seeks to prohibit abuses of office. 2020 ETH 01. The rule is content neutral and does not distinguish based on the contents of the message or the purpose for which the message is communicated. 2020 ETH 03. The rule also does not distinguish between electronic pieces and printed pieces, so it is important that local officials using municipally-funded methods of communication be aware that the rule applies to electronic communications and understand how such communications are counted. In 2018 ETH 03, the Commission held that electronic communications where the sender actively selects recipients (e.g., emails, text messages, or direct messages) would be counted as a single “piece” per recipient while electronic communications that were published in a singular form but could be read by multiple individuals (e.g., a website page, Facebook post, or tweet), would only be counted as a single piece regardless of the number of times the page, post, or tweet is viewed.

Although the prohibition is broad, the law contains certain exceptions. The most important exceptions for local officials are that the law does not prohibit the use of public funds for the costs of the following:

- Answers to communications of constituents.
- Actions taken by a local government administrative officer pursuant to a specific law, ordinance, or resolution which authorizes or directs the actions to be taken.

What is the campaign period?

The prohibition is in effect during the following time period:

1. For a candidate who is nominated by nomination papers, the first day authorized by law for circulation of nomination papers as a candidate.
2. For a candidate who is nominated at a primary election by write-in votes, the day the board of canvassers issues its determination that the person is nominated.
3. For a candidate who is nominated at a caucus, the date of the caucus.
4. For any other candidate who is nominated solely by filing a declaration of candidacy, the first day of the month preceding the month which includes the last day for filing the declaration.

The period ends the date of the election or after the date of the primary election if the person appears as a candidate on a primary election ballot and is not nominated at the primary election.

