

CITY OF MADISON, WISCONSIN

REPORT OF: <b>OFFICE OF CITY ATTORNEY</b>	PRESENTED <u>April 19, 2005</u>
TITLE: <b>Am. 34.01(2)(c) MGO Street Width and the Commercial Building Code</b>	REFERRED _____
AUTHOR: <b>Katherine C. Noonan Assistant City Attorney</b>	REREFERRED _____
DATED: <b>April 12, 2005</b>	REPORTED BACK _____
	ADOPTED _____ POF _____
	RULES SUSPENDED _____
	ID NUMBER _____

TO THE MAYOR AND COMMON COUNCIL:

ID#00760 - Amending Section 34.01(2)(c) and creating Section 34.19(4) of the Madison General Ordinances to limit applicability so as not to preclude flexibility in street width and to not conflict with the applicability provisions of the One and Two Family Dwelling Code and the Commercial Building Code.

The existing language of Sec. 34.01(2)(c) MGO makes the provisions of Chapter 34 applicable to all buildings and premises and all public thoroughfares in the City. Sec. 34.19 contains the additional requirements, beyond those in the state code, for fire apparatus access (fire lanes). The combination of these two provisions makes all City streets subject to the requirements for fire lanes and has given rise to concern over the lack of flexibility in the width of streets in various developments in the City. The state code does not require that streets be fire lanes. Street width is a policy decision for the Council. The existing language in Sec. 34.01(2)(c) and 34.19 was adopted in 2002.

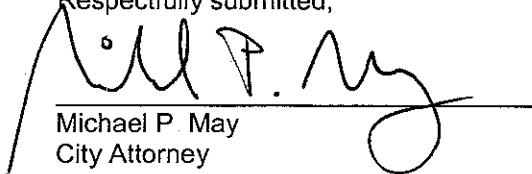
The state code does require that fire lane requirements be applied to buildings and premises subject to the commercial building code, which applies to all public buildings (building with 3 or more tenants) and places of employment. The existing requirements in Sec. 34.19 are in addition to the requirements that are found in the state code. Pursuant to the state code, these more restrictive requirements cannot be applied to multifamily dwellings unless the State grants a variance to the City. The City has no variance.

These amendments remove the applicability of the requirements for fire lanes from City streets and correct the applicability of Sec. 34.19 to buildings and premises so that it is consistent with state code.

The decision to remove the applicability of the requirements for fire lanes from City streets is a policy decision, which is not controlled by state code. The amendment to specify which buildings and premises are subject to Sec. 34.19 is required so as not to violate the state code

RECOMMENDATION: The City Attorney recommends adoption of the amendment to Sec. 34.19 to bring this section into conformity with the state code. The removal of the applicability of Sec. 34.19 to City streets is a policy decision, and the City Attorney has no opinion on the matter.

Respectfully submitted,



Michael P. May  
City Attorney

MPM:KCN:pah