



BACKGROUND

A recent change in the Texas Fireworks Rules removed the requirement for a “continuous durable restraint around displayed fireworks separating the customers from all merchandise.” The new rule reads as follows:

§34.832. Specific Requirements for Retail Fireworks Sites Other Than Stands. Indoor retail fireworks sites shall comply with the following requirements:

- (5) Fireworks sales display areas shall be sufficiently designed to prevent customers from handling fireworks, unless an attendant is directly assisting the customer. ~~Sales display areas must include a continuous durable restraint around displayed fireworks separating the customers from all merchandise. The height, weight, and stability of the restraint must be designed to prevent individuals from penetrating the barrier.~~
- (6) Fireworks in the sales area shall be limited to the displayed merchandise unless stored in closed cardboard boxes not accessible to the public.
- (7) Access to fireworks when stored in a separate and distinct area away from general fireworks sales shall be restricted to employees only and "No Smoking" signs shall be posted inside.

EFFECT ON HARRIS COUNTY FIRE CODE

Section 5609.4 of the Harris County Fire Code includes specific requirements for retail fireworks sites other than stands in unincorporated parts of Harris County. In some cases, these requirements differ from those listed in the State fireworks rules. The applicable section of the Harris County Fire Code reads as follows:

§5609.4.4.1.4 Sales Area Design.

1. Fireworks sales display areas shall be sufficiently designed to prevent customers from handling fireworks, unless an attendant is directly assisting the customer.
2. Fireworks in the sales area shall be limited to the displayed merchandise unless stored in closed, original DOT approved packaging not accessible to the public.
3. Sales display areas must include a continuous durable restraint around displayed fireworks separating the customers from all merchandise. The height, weight, and stability of the restraint must be designed to prevent individuals from penetrating the barrier.
4. Fireworks sales and storage areas shall be designed to prevent the placement of fireworks within 5 ft. of any public entrance or exit in an enclosed building or structure.

PERFORMANCE-BASED ALTERNATIVE

The intent of the continuous durable barrier is to prevent customers from handling fireworks, unless an attendant is directly assisting the customer. The requirement for a continuous durable restraint has not been removed from the Harris County Fire Code; however, Section 109.1 of the County Fire Code allows the installation of any material or use of any method of construction not specifically prescribed by this Code, provided that any such alteration (1) meets the intent of the Code; (2) meets or exceeds requirements for quality, strength, effectiveness, fire resistance, durability and safety; and (3) has been approved by the County Building Code Official and the Fire Marshal.

Thus, any vendor that wishes to omit, or remove, this barrier may submit a performance-based alternative to the Harris County Fire Marshal for consideration. The Fire Marshal is authorized to approve construction or remodeling where such changes meet these requirements. Please contact us at fmosupport@fmo.hctx.net with any questions.