

ORDINANCE NO. 24-1221

AN ORDINANCE OF THE CITY OF DENTON AMENDING THE PROVISIONS OF CH. 14 OF THE CODE OF ORDINANCES BY ADDING ARTICLE IX TO CH. 14, TITLED COMMUNITY ASSOCIATIONS AND WINDOW AIR CONDITIONING UNITS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denton recognizes the importance of ensuring that residents have access to adequate cooling measures to maintain their health and safety; and

WHEREAS, the City of Denton finds that it is in the best interest of the public to protect public health, safety, and welfare by prohibiting the restriction of window air conditioning units by community associations; and

WHEREAS, the City deems it necessary to amend the City of Denton Code of Ordinances by adding Article IX to CH. 14, titled Community Associations and Window Air Conditioning Units; NOW, THEREFORE

THE CITY COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference as if true.

SECTION 2. The City of Denton Code of Ordinances is hereby amended by adding Article IX to CH. 14, titled Community Associations and Window Air Conditioning Units, in the form attached hereto.

SECTION 3. If any section, article, paragraph, sentence, phrase, clause, or word in this ordinance, or application thereof to any persons or circumstances, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; the City Council declares that it would have ordained such remaining portion despite such invalidity, and such remaining portion shall remain in full force and effect.

SECTION 4. All provisions of the ordinances of the City of Denton in conflict with the provision of this ordinance are hereby repealed. The repeal of any ordinance or any portion thereof by the preceding text shall not affect or impair any act done or right vested or accrued or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect and such shall remain in force for all intents and purposes as if such ordinance or part thereof so repealed shall remain in force.

SECTION 5. The City Secretary is hereby directed to record and publish the above regulations in the City's Code of Ordinances.

SECTION 6. Pursuant to Section 2.09(c) of the Charter for the City of Denton, this ordinance shall become effective fourteen (14) days from the date of this passage and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record Chronicle, the official newspaper of the City of Denton, Texas, within ten (10) days of the date of its passage.

The motion to approve this ordinance was made by _____ and seconded by _____, the ordinance was passed and approved by the following vote [4 - 3]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	<u>✓</u>	_____	_____
Vicki Byrd, District 1:	<u>✓</u>	_____	_____	_____
Brian Beck, District 2:	<u>✓</u>	_____	_____	_____
Paul Meltzer, District 3:	<u>✓</u>	_____	_____	_____
Joe Holland, District 4:	_____	<u>✓</u>	_____	_____
Brandon Chase McGee, At Large Place 5:	<u>✓</u>	_____	_____	_____
Jill Jester, At Large Place 6:	_____	<u>✓</u>	_____	_____

PASSED AND APPROVED this the 18th day of June, 2024.


GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: 



ARTICLE IX. Community Associations and Window Air Conditioning Units

Sec. 14-203.16. – Purpose.

The purpose of this article is to ensure the health, safety, and comfort of residents in the City of Denton by safeguarding their right to use window air conditioning units, particularly under extreme temperature conditions.

Sec. 14-203.17. – Definitions.

Community Association refers to any homeowners' associations (HOAs), neighborhood associations, manufactured home communities, and other similar neighborhood groups. This term specifically denotes any entity established to administer a residential community and its common areas, enforce applicable rules and covenants, and as required, levy and collect association fees or dues from its members.

Sec. 14-203.18 – Prohibition on Restrictions of Window Air Conditioning Units.

(a) Prohibition on Restrictions.

- (1) Notwithstanding any provision in a Community Association's bylaws, covenants, conditions, and restrictions (CC&Rs), no Community Association within the City of Denton shall prohibit or restrict a resident's right to install and use window air conditioning units to serve property owned by the Resident when such use is reasonably necessary to protect the health and safety of the resident or any member of their household. This right is upheld as long as the units are maintained in good working condition and conform to the reasonable regulations set forth in subsection (2).
- (2) It shall be unlawful for any person to take any action on behalf of a community association or under the color of a restriction prohibited by this Article to:
 - i. Attempt to enforce said restriction by threatening or imposing a fine or lien on the resident's property;
 - ii. Otherwise prevent or interfere with a resident's installation of a window air conditioning unit consistent with this Code; or
 - iii. Cause the removal of a window air conditioning unit which was installed consistent with this Code.

Sec. 14-203.19 – Affirmative Defenses.

It is an affirmative defense to prosecution under this article that any of the following conditions apply:

- (a) The Community Association only restricts the use of window air conditioning units during months when heating is necessary, provided such restrictions are clearly communicated and agreed upon in advance.
- (b) Central air conditioning is provided and maintained by the Community Association or the property owner.
- (c) The Community Associations establishes regulations concerning the installation and appearance of window air conditioning units, provided that such regulations:
 - (1) Do not effectively prohibit the use of window air conditioning units.
 - (2) Do not limit the operational effectiveness of the units.
 - (3) Are applied uniformly and fairly among all residents.

Sec. 14-203.20 - Penalty.

Any violation of the provisions or terms of this article by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine of up to five hundred dollars (\$500.00) in accordance with Sec. 1-12(a)(4) of the City Code of Ordinances for each offense, as well as injunctive relief.