Sec. 27-45. Intent.
The intent of this article is to protect the availability of publicly assisted affordable housing for low and moderate income households by: providing for notice to the city and tenants when transitions from current assistance programs and/or affordable housing uses are planned; providing purchase opportunities for the city to attempt to preserve the affordable housing while respecting ownership interests of building owners; and ensuring long term affordability in future projects that the city assists with public financing designed to create or preserve affordable housing.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05)

Sec. 27-46. Definitions.
(a) Affordable housing. The term "affordable housing," "affordable housing rental housing" or "housing affordable to rental households" means that the rent is structured so that the targeted tenant population pays no more than thirty (30) percent of their gross household income for rent and utilities. The targeted tenant populations referred to in this section include households up to eighty (80) percent of area median family income.
(b) City subsidy. Locally controlled public funds administered by the housing and neighborhood development, or other city agency, allocated for the purpose of creating or preserving affordable rental housing to households below eighty (80) percent of median family income. City subsidies may be provided to developers through direct financial assistance such as low interest or deferred loans, grants, equity gap investments, credit enhancements or loan guarantees, or other mechanisms.
(c) City subsidy projects. Privately owned properties of five (5) or more units which receive funding from or through a city subsidy after the effective date of this article through programs designed to create or preserve rental housing affordable at or below eighty (80) percent of area median family income.
(d) Federal preservation projects. Properties having project-based rental assistance contracts for some or all of the units (such as Section 8 and project rental assistance contracts) including those developed under a variety of HUD mortgage assistance and interest rate reduction programs. Federal preservation projects also include properties with ten (10) or more units with federally-funded loans, contracts, or insurance. An updated list of all known federal preservation projects will be maintained and available to the public upon request.
(e) HNDS. The housing and neighborhood services division of the City and County of Denver.
(f) HUD. The United States Department of Housing and Urban Development.
(g) **Involuntary displacement.** Tenants of federal preservation projects are considered to be involuntarily displaced if:

1. They are served a notice to vacate the property for reasons other than just cause as defined herein;
2. They are not offered a one (1) year lease under their tenant based voucher by the property owner; or
3. They are offered a one (1) year lease under their tenant based voucher, but are required to pay as rent and utilities an amount greater than the tenant contribution to rent (and utilities) in effect under the project-based section 8 contract, and they then choose to move from the property rather than enter into a lease under the voucher. This form of displacement may be referred to as "economic displacement."

(h) **Just cause eviction.** Evictions for serious or repeated violations of the terms and conditions of the lease or occupancy agreement, violation of applicable federal, state or local law, or other good cause.

(i) **Local preservation projects.** Properties with ten (10) or more rental units which received financial assistance from one or another local entity, to create or preserve housing serving households below eighty (80) percent of median family income which have affordability restrictions that are still in force as of the effective date of this article. Financial assistance programs include subsidies from the City and County of Denver, Denver Urban Renewal Authority, the State of Colorado or the Colorado Housing and Finance Authority, or which have received bond financing issued by the City and County of Denver or the Colorado Housing and Finance Authority. An updated list of all known local preservation projects will be maintained by HNDS and will be made available upon request.

(j) **Low income.** Low income individuals, household or tenants are those with a gross household income below fifty (50) percent of the area median family income.

(k) **MFI.** Median family income for the Denver metropolitan statistical area as defined by HUD as adjusted for inflation and published periodically.

(l) **Moderate income.** Moderate income individuals, households or tenants are those with a gross household income below eighty (80) percent of the area median family income.

(m) **Opt out.** An owner's non-renewal of an available project-based section 8 contract in a federal preservation project. Owners may consider "opting out" when they contemplate conversion to open market rental housing, other housing or commercial uses, or a sale of the property.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05)

**Sec. 27-47. Federal preservation projects--Notice and purchase opportunities.**

(a) Owners of federal preservation projects must provide the city and each building tenant with a one (1) year's notice of a pending HUD section 8 contract expiration.

(b) Owners of federal preservation projects who have decided to "opt out" must provide to the city and each affected building tenant a notice of two hundred ten (210) days of intent to do so if the owner is opting out of a long-term contract, and one hundred fifty (150) days if the owner is opting out of a one-year extension to a long-term contract. The notice shall specify:
(1) Whether the owner intends to withdraw the property from the section 8 program;
(2) Whether the owner intends to convert the participating property to a nonparticipating use; and
(3) Whether the owner is involved in negotiations with HUD regarding an extension of an expiring contract.
(c) Owners of federal preservation projects who have decided to "opt out" must consent to reasonable inspection of the property and inspection of the owner reports on file with HUD, the State of Colorado, or the city. These inspections are designed to facilitate the city's ability to assess the fair market value of the property and evaluate status of the tenants, viability of transfer and/or continuation of a section 8 agreement with HUD and other pertinent information.
(d) To the extent allowed by HUD, owners of federal preservation projects must maintain an available HUD section 8 contract in good standing during the notice periods identified in this chapter as well as any condemnation proceeding commenced.
(e) Owners of federal preservation projects must refrain from taking any action, other than notifying HUD of the owner's intention to not renew the contract, that would preclude the city or its designee from succeeding to the contract or negotiating with the owner for purchase of the property during the notice periods identified in this article as well as any condemnation proceeding commenced.
(f) In addition to any other times, during the notice periods identified in this article, the city may pursue preservation of the project through negotiation for purchase or through condemnation.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05)

Sec. 27-48. Federal preservation projects--Civil fines.
(a) An owner who fails to comply with any of the requirements specified in this article shall pay a civil fine. The fine shall be calculated in relation to the costs and damages caused by the owner's failure to comply, up to full replacement costs of each project-based section 8 housing unit lost. Such civil fines shall be payable into a housing replacement fund to be established and managed by the city. If the civil fine is not received within the timeframes specified in this article or in rules and regulations promulgated to enforce this article, the city may commence enforcement proceedings.
(b) Any fines received shall be used only for creating replacement affordable housing.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05)

Sec. 27-49. Local preservation projects--Tenant and city notice provisions.
(a) When the owner of a local preservation project takes action which will make the affordable housing no longer affordable, whether the affordability requirements which were established under prior agreement with the city or state have expired or are still in effect, the owner must provide a notice of ninety (90) days to the city. The notice shall meet standards developed by HNDS. During the 90-day notification period, the owner may not sell or contract to sell the property, but may engage in discussions with other interested parties. Within this period, the city or its designee may make an offer to
purchase or attempt to coordinate a purchase by an owner committed to maintaining affordability.

(b) Owners of local preservation projects who have decided to take action described in section 27-49(a), must provide a written notice of ninety (90) days to tenants. This shall be in addition to the notice to be provided to the city under section 27-49(a). During this notice period the owner may not initiate a no cause eviction.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05)

Sec. 27-50. City subsidy properties—Long term affordability requirements.

(a) Properties that in the future request and receive a city subsidy from HNDS or other city agency for the purpose of creating or preserving rental housing affordable to households below eighty (80) percent of median family income, will be subject to a minimum of 20-year affordability contract requirements.

(b) All city agencies administering affordable rental housing subsidy programs will be responsible for implementing this section. As the primary agency charged by the city to negotiate and confer affordable housing subsidies, HNDS will develop implementing strategies consistent with the 20-year affordability principles contained in this section.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05)

Sec. 27-51. Compliance and enforcement.

(a) HNDS shall develop and implement procedures, through the promulgation of rules and regulations, to enforce the provisions of this article. Such procedures should include, where feasible, record notice of the applicability of this code to affected properties, filing a lien to enforce the provisions of this code, and developing civil penalties or other enforcement provisions necessary or appropriate to enforce this article.

(b) The city attorney's office may enforce the provisions of this code on behalf of the city in any court of competent jurisdiction or city administrative body.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05)

Sec. 27-52. No restriction of powers of eminent domain; severability.

(a) This article shall not be construed to restrict the city's existing authority to exercise powers of eminent domain through condemnation.

(b) If any part or provision of this article, or application thereof to any person or circumstance, is held invalid, the remainder of this article and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this article are severable.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05)

Secs. 27-53--27-100. Reserved.