BY AUTHORITY

ORDINANCE NO. _____ COUNCIL BILL NO. CB26-0561

SERIES OF 2026 COMMITTEE OF REFERENCE:

Community Planning and Housing

A BILL

For an ordinance amending Chapter 27, Article III of the Revised Municipal Code, concerning the preservation of affordable housing.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That chapter 27, article III of the Code shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

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.

Sec. 27-46. Definitions.

The following words and phrases, as used in this article III, have the following meanings:

~~(a)~~(1) *Affordability restrictions.* Restrictions placed upon a property that (i) limit the use and/or occupancy of all or part of the units on the property to households with incomes below a certain level or (ii) limit the rent that can be charged for such units to below-market rates. Affordability restrictions may be imposed by deed restriction, covenant, contract, or other manner.

~~(b)~~(2) *Affordable housing.* The term "affordable housing," "affordable 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 AMI.

~~(c)~~(3) *AMI* or *area median income.* The median household income within the City and County of Denver, as determined by the Department of Housing and Urban Development and published

annually by the Colorado Housing and Finance Authority.

~~(d)~~(4) *City subsidy.* Locally controlled public funds administered by the HOST, or another city agency, allocated for the purpose of creating or preserving affordable rental housing. 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.

~~(e)~~(5) *City subsidy projects.* Privately owned properties that include five (5) or more units receiving funding from or through a city subsidy.

(6) *CHFA.* The Colorado Housing and Finance Authority.

(7) *Commercial space*. Real property intended to generate income either from capital gain or rental income, such as office buildings.

(8) *Contingent sales agreement*. An executed offer of purchase for a local or federally subsidized property stating the owner's sales price and terms and conditions for the sale of the property.

(9) *Days*. Calendar days, unless otherwise specified.

(10) *Designated preservation partner*. A HOST-approved affordable housing developer or development organization, DHA, CHFA, or quasi-governmental entity.

(11) *DHA.* The Housing Authority of the City and County of Denver

~~(f)~~ (12) *Federal financial assistance.* Financial assistance received from or as a result of federal programs that aim to support creation, preservation or rehabilitation of affordable housing or long-term affordability of housing, including project-based rental subsidies under Section 8 of the United States Housing Act, and assistance provided under or as a result of Section 221(d)(3), Section 236, section 202, section 101, and Sections 514, 515 and 521 of the National Housing Act or Section 42 of the Internal Revenue Code.

~~(g)~~ (13) *Federal preservation project.* A rental housing project that has affordability restrictions in place on five (5) or more rental units as a result of having received federal financial assistance. An updated list of all known federal preservation projects will be maintained by HOST and will be made available upon request. Omission from such list shall not affect the applicability of this ordinance to a federal preservation project.

~~(h)~~ (14) *HOST.* The Department of Housing Stability of the City and County of Denver.

~~(i)~~ (15) *HUD.* The United States Department of Housing and Urban Development.

~~(j)~~ (16) *Local financial assistance.* Financial assistance received from or through a state or local public entity to support creation or preservation of affordable housing, including city subsidies, subsidies from the Denver Urban Renewal Authority, the State of Colorado or ~~the Colorado Housing and Finance Authority ("CHFA")~~ CHFA, bond financing issued by the City and County of Denver or ~~the~~

~~Colorado Housing and Finance Authority~~ CHFA, and projects that utilized low income housing tax credits (LIHTC) administered by CHFA.

~~(k)~~ (17) *Local preservation project.* A rental housing project that has affordability restrictions in place on five (5) or more rental units as a result of having received local financial assistance. An updated list of all known local preservation projects will be maintained by HOST and will be made available upon request. Omission from such list shall not affect the applicability of this ordinance to a local preservation project. Mobile home parks and accessory dwelling units are excluded.

~~(l) *Long-term affordability restrictions.* A local preservation project or a federal preservation project that is subject to affordability restrictions for a minimum of ninety-nine (99) years in a form satisfactory to HOST.~~

(18) *Market-rate property*. A multifamily residential or mixed-use property consisting of fifteen (15) or more units that has not received federal or local financial assistance, does not have existing affordability restrictions on the property, and is at least 30 years old. Mobile home parks and Accessory Dwelling Units (ADUs) are excluded.

(19) *Notice of intent to sell*. An owner's written notice expressing their desire to list or market their Federal or Local Preservation project to sale.

~~(m)~~ (20) *Opt out.* An owner's (i) non-renewal of an available option to extend any contract under which federal financial assistance was provided for the project or (ii) prepayment of a federally-subsidized loan or mortgage if such prepayment results in termination of federal affordability restrictions.

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

(a) Owners of federal preservation projects must provide ~~the city~~ HOST and each building tenant with the following notices:

(1) ~~One (1) year's~~ Two (2) years' advance notice of:

a. the expiration of ~~(i)~~ a contract under which federal financial assistance was provided;

b. ~~and (ii)~~ the expiration of any affordability restrictions; and

c. the owner's intent to opt out;

(2) ~~One (1) year's~~ Six (6) months' advance notice of:

a. the expiration of a contract under which federal financial assistance was provided;

b. the expiration of any affordability restrictions; and

c. the owner's intent to "opt out"; and

(3) Ninety (90) days' advance notice of its intent to pursue a sale of such federal

preservation project, regardless of the expiration of affordability restrictions.

(b) Notices required by subsection (a) above shall specify:

(1) Whether the owner or intended buyer ~~intends to withdraw the property from the federal financial assistance program;~~

~~(2) Whether the owner or intended buyer~~ is involved in negotiations with HUD regarding an extension of affordability restrictions; ~~and~~

~~(3)~~ (2) For a sale, the intended date of sale or transfer; and

(3) The expiration date of affordability restrictions.

(c) Owners of federal preservation projects who have decided to ~~"opt out"~~ opt out or sell the federal preservation project 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~~ designated preservation partner 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.

(g) Owners of federal preservation projects who have decided to sell the federal preservation project to an entity other than the city shall provide a right of first refusal to the city or its ~~designee~~ designated preservation partner, and any such purchase and sale agreement entered into by the owner of federal preservation project shall be contingent upon the right of first refusal of the city or its ~~designee~~ designated preservation partner to purchase the federal preservation project. The owner of the federal preservation projects shall provide the contingent sales agreement to the city or its ~~designee~~ designated preservation partner upon its execution. Upon receipt of the contingent sales agreement, the city shall have one hundred twenty (120) days to notify the owner of the federal preservation project of its or its ~~designee's~~ designated preservation partner’s intent to purchase the federal preservation project or its intent to facilitate the purchase of the federal preservation project by

its ~~designee~~ designated preservation partner, an entity willing to preserve the affordability of the housing provided in the federal preservation project. If the city or its ~~designee~~ designated preservation partner is willing to purchase the federal preservation project on terms that are economically substantially identical to the terms of the contingent purchase and sale agreement and shall agree to close within one hundred twenty (120) days from the date the city or its ~~designee~~ designated preservation partner and the owner sign a purchase and sale agreement, the owner shall sell the federal preservation project to the city or its ~~designee~~ designated preservation partner on those terms.

~~(h) Federal preservation projects subject to long-term affordability restrictions shall not be subject to the requirements of this section.~~

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.

Sec. 27-49. Local preservation projects—Tenant and city notice provisions.

(a) ~~When the owner~~ Owners of ~~a~~ local preservation ~~project takes action which will make the affordable housing no longer affordable or has decided to pursue a sale of the local preservation project, the owner must provide ninety (90) days' advance notice to the city~~ projects must provide HOST and each building tenant with the following notices:

(1) Two (2) years' advance notice of the expiration of:

a. a contract under which local financial assistance was provided; and

b. any affordability restrictions;

(2) Six (6) months' advanced notice of the expiration of:

a. a contract under which local financial assistance was provided; and

b. any affordability restrictions; and

(3) Ninety (90) days' advance notice to the city of its intent to pursue a sale of such local preservation project, regardless of the expiration of affordability restrictions.

(b) The ~~notice~~ notices required by subsection (a) shall meet standards developed by HOST. During the ninety (90) day notification period, the owner may not sell or contract to sell the property, but may engage in discussions with ~~other~~ interested parties, including the city.

~~(b)~~ (c) Owners of local preservation projects who ~~have decided to take action~~ give notice as

described in ~~section 27-49(a),~~ subsection (a) must provide a written notice ~~of ninety (90) days~~ to tenants at each respective notice period. This ~~shall be~~ notice is in addition to the notice ~~to be~~ provided to the city under ~~section 27-49(a)~~ subsection (a). During ~~this~~ the ninety (90) day notice of intent to pursue a sale period, the owner ~~may~~ shall not initiate a no cause eviction against a tenant of the building.

~~(c)~~ (d) Owners of local preservation projects who have decided to sell the local preservation project to an entity other than the city shall provide a right of first refusal to the city or its ~~designee~~ designated preservation partner, and any such purchase and sale agreement entered into by the owner of local preservation projects shall be contingent upon the right of first refusal of the city or its ~~designee~~ designated preservation partner to purchase the local preservation project. The owner of the local preservation project shall provide the contingent purchase and sale agreement to the city or its ~~designee~~ designated preservation partner upon its execution. Upon receipt of the contingent purchase and sale agreement, the city shall have one hundred twenty (120) days to notify the owner of the local preservation project of its or its ~~designee's~~ designated preservation partner's intent to purchase the local preservation project or its intent to facilitate the purchase of the local preservation project by its ~~designee~~ designated preservation partner, an entity willing to preserve the affordability of the housing provided in the local preservation project. If the city or its ~~designee~~ designated preservation partner is willing to purchase the local preservation project on terms that are economically substantially identical to the terms of the contingent purchase and sale agreement and shall agree to close within one hundred twenty (120) days from the date the city and the owner sign a purchase and sale agreement, the owner shall sell the local preservation project to the city or its ~~designee~~ designated preservation partner on those terms.

~~(d) Local preservation projects subject to long-term affordability restrictions shall not be subject to the requirements of this section.~~

Sec. 27-50. City subsidy projects—Affordability requirements.

(a) City subsidy projects that receive a subsidy before July 1, 2027, will be subject to affordability restrictions for a minimum of sixty (60) years. On and after July 1, 2027, city subsidy projects must be subject to affordability restrictions for a minimum of ninety-nine (99) years. The city's emergency maintenance grant program is excluded from this requirement.

(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, HOST will develop implementing strategies consistent with the ~~sixty-year~~ affordability principles contained in this section.

Sec. 27-50.5. Right of First Offer – Market-Rate Property.

(a) An owner of a market rate property must provide HOST with a twenty-one (21) day notice of intent to sell the property prior to any public listing or marketing of the property or engagement with any interested third parties. The notice must include:

(1) The property name,

(2) The property address,

(3) Year of construction

(4) Total number of units and bedroom types,

(5) Any commercial space,

(6) The sales price, and

(7) Full contact information for the seller or their designated representative.

(b) The city, or its designated preservation partner, has ten (10) days from the date it receives notice of intent to sell to provide notice of interest to purchase the property. If the city, or its designated preservation partner, has expressed interest to purchase the property, then the seller has ten (10) days from the date it receives notice from the city to provide the following information on the property:

(1) Property address and legal description,

(2) Rent Roll,

(3) Vacancy rate, operating expenses and income, and common area amenities,

(4) Any marketing materials prepared on the property,

(5) Current title commitment, and

(6) Full contact information for the seller, or its designated representative.

(c) The city, or its designated preservation partner, has fourteen (14) days from the date it receives the property information required by subsection (b) to exercise or waive the right to first offer on the property. If an offer is made, then the seller has fourteen (14) days from the date of receipt to accept or reject the city's, or its designated preservation partner's, offer to purchase the property. If the seller accepts, then the city, or its designated preservation partner, has ninety (90) days to execute a purchase sale agreement and one hundred twenty (120) days to close on the real property transaction.

(d) An owner of a market-rate property who has decided to take an action described in subsection (a), must provide a written notice to tenants at the twenty-one (21) day notice of intent to sell period. During this notice period the owner shall not initiate a no cause eviction against a tenant of the building.

Sec. 27-51. Compliance and enforcement.

(a) HOST 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.

~~The amendment to section 27-50 regarding minimum affordability periods shall be effective with regard to projects receiving a city subsidy pursuant to a contract dated on or after February 1, 2019.~~

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.

Secs. 27-53—27-100. Reserved.

COMMITTEE APPROVAL DATE: April 28, 2026.

MAYOR-COUNCIL DATE: May 5, 2026.

PASSED BY THE COUNCIL _____

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____

ATTEST: _____ - CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

NOTICE PUBLISHED IN THE DENVER POST _____; _____

PREPARED BY: Megan E. Waples, Assistant City Attorney DATE: May 7, 2026

Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the City Attorney. We find no irregularity as to form and have no legal objection to the proposed ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to § 3.2.6 of the Charter.

Miko Ando Brown, Denver City Attorney

BY: _____, Assistant City Attorney DATE: _____