2026 Housing Preservation Ordinance

City Council - Budget & Policy Committee
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DENVER
HOUSING STABILITY

Agenda

- Background of Affordable Housing Preservation
- Overview of the CCD Housing Preservation Ordinance
- Overview of the State Bill – HB 24-1175
- Recommended Changes to the City's Housing Preservation Ordinance
- Examples of Preservation Ordinance in Action
- Q&A

Background: Denver Preservation Ordinance

- In our current housing market, maintaining housing affordability is equally as important as creating new affordable units across the city.
- Preservation Ordinance adopted in 2000, and amended in 2019.
- 2019 amendments, plus Rules & Regulations, established city's Right of First Refusal (ROFR) for federal and local preservation projects.
- ROFR allows the local government the first opportunity to match an acceptable offer to purchase an existing affordable, multi-family development -- preserving affordable housing units across the city.
- Between 2019 and 2025, we have helped preserve 1,443 affordable units citywide.

Background: Housing Preservation Gap Funding Support

- HOST can support existing affordable housing owners by providing acquisition/preservation loans or emergency maintenance grants for small to large rehabilitation work.

- Additionally, HOST has an approved list of preservation partners (~18 development orgs) that may be interested in purchasing an existing property if the owner is ready to sell.

- In exchange for HOST funding, a 60-year affordability covenant is placed on the property.

Acquisition/Preservation Loan *HOST $/unit for all affordable units in the building is based on # of 30% AMI units*	
Land Acquisition/ Predev	**NOAH MF Acquisition/ Rehab**
Land banking	Acq/rehab
$3,000,000	$3,000,000
$5,000,000	$7,500,000
N/A	$25,000-$75,000/unit
N/A	
99 years	60 years
3 year term with up to two 1-yr extensions	The greater of 5 years or matching other senior or subordinate lenders, up to 35 years.
2 years	2 years w/ 1 year extension
1.05	
95%	
Interest Only	Up to 35 years

Grants	
Supportive Services	**Emergency Maintenance**
Grant	Grant
$2,000,000	$250,000
N/A	N/A
$1,500 PUPA	N/A
N/A	
Requires 60 year covenant	
N/A	
Pro-rated over 15 years	3 Months
N/A	
N/A	
N/A	

Preservation Ordinance Highlights

- **Current Preservation Ordinance scope is narrower**
  - Focused on existing affordable, multi-family development -- preserving affordable housing units across the city.

- **HB 24-1175** outlines the process for local governments to exercise or waive their ROFR and Right of First Offer (ROFO) for existing affordable, market-rate, and naturally occurring affordable housing (NOAH) properties.

  - **Proposed ordinance updates will address some inconsistencies, provide more clarity, and add some conformity to the new state law.**

  - Denver's policy is more favorable to the city than the provisions stated in the state bill and is the governing preservation policy for the city.

Preservation Ordinance Highlights

- **2026 Preservation Ordinance Update highlights include:**
  - 99-year minimum affordability period (previously it was 60 years)

  - Added a Right of First Offer section (Applies to all market-rate properties with units $15 \leq X \leq 100$ and at least 30 years old)

- **2026 Opt-Out Resolution:**
  - This resolution will accompany the revised preservation ordinance, stating that the City and County of Denver will opt-out of State Bill 24-1175, pursuant to C.R.S. § 29-4-1204(5), which states our preservation ordinance is the governing policy.

HB 24-1175 – Local Government Rights to Property for Affordable Housing

- HB 24-1175 outlines the process for local governments to exercise or waiver their ROFR and ROFO. Law became effective on August 7, 2024.

- Right of First Refusal (ROFR) - applies to income-restricted (affordable) housing properties with at least 5 units.
  - Requires owners to provide notice at 2 years and 6 months prior to expiration of affordability restrictions, letting the local government (LG) know their intentions (to sell, to keep & recapitalize, or to keep and let restrictions expire).
  - Triggering Event: (1) signs an LOI with a potential buyer, (2) market property for sale, or (3) acceptance of a conditional offer for sale or transfer
    - 14-day notice: Seller to send notice of planned sale to the LG and CHFA
    - 14-day consideration: LG has 14 days to decide to purchase, assign to a government partner (CHFA or DHA) or waive ROFR
    - If decide to purchase, 30 days to sign PSA and 60 days to close.

- Right of First Offer (ROFO) – applies to market-rate properties with units $15 \leq x \leq 100$ and at least 30 years old.
  - Requires property owners to provide 7-days notice of a planned sale to the LG, allowing them to express interest in purchasing the property. If the city is interested and once the property owner provides due-diligence documents, the LG has 14 days to make an offer on the property or waive their ROFO.

- The state bill does not apply to mobile home parks or ADUs.

2026 Preservation Ordinance – Summary of Proposed Changes

Added Definitions	○ CHFA & DHA ○ Notice of Intent to Sell ○ Removed – Long Term affordability ○ Commercial Space ○ Contingent Sales Agreement ○ Preservation Partner
Federal Preservation Project	○ Change 1-year notice to a 2-year notice and added a 6-month notice ○ No changes to other timelines ○ No changes to tenant notification and no-cause eviction requirements
Local Preservation Project	○ Change 1-year notice to a 2-year notice and added a 6-month notice ○ No changes to other timelines ○ No changes to tenant notification and no-cause eviction requirements
Affordability Requirements	○ (Section 27-50) Proposing 99-year covenant for all preservation properties. (Previously, it was 60 years.) ○ Do not apply to Emergency Maintenance grant program. Requirements to be set by term sheet.

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2026 Preservation Ordinance – Summary of Proposed Changes (cont.)

Added ROFO section	○ Applies to all market-rate properties with units 15 to 100 and at least 30 years old ○ Seller to provide a 21-day notice of a planned sale or intent to market property for sale to the City. Ordinance provides notice requirements. ○ The City, or its Preservation Partner has 10 days to provide notice of interest, then requiring the seller to provide due diligence items consistent with the state bill, within 10 days of the notice of interest. ○ The City or its Preservation Partner has 14 days to exercise or waive their ROFO. In turn, the seller has 14 days to accept or reject the offer. ○ If offer is accepted, then the City or its Preservation Partner has 90 days to execute the PSA and 120 days to close. ○ Added same tenant notification and no-cause eviction requirements
Enforcement for ROFO	○ Same as ROFR
CCD Preservation Policy	○ Updated ordinance in effect on May 1, 2026 or later (pending CC approval) ○ No sunset date

Preservation Ordinance Approval Timeline

Public Stakeholder Meeting
(November 2025)

- HOST presented anticipated revisions to preservation ordinance to stakeholders.
- Feedback incorporated

Mayor and Council Briefings
(Feb./Mar. 2026)

- Outreach to the Mayor/his team
- Outreach to CMs/staff
- Incorporate feedback

Present to CC for Approval
(Mar./Apr. 2026)

- CPH Committee
- Mayor-Council
- Two CC meetings

Additional Updates
(Summer 2026)

- Update Rules & Regs
- HOST preservation webpage goes live

Preservation Ordinance in Action - ROFR

- You are the owner of a 60-unit affordable property with a CHFA LURA, a city loan, and city covenant. This is considered a local preservation project. The CHFA LURA expires in 2 years, and the city covenant expires in 20 years. You are interested in selling the property.
- Ideally, HOST has received a 2-year notice and a 6-month notice letting us know the owner is intending to sell the property.
- 90 days advance notice: Owner sends HOST the notice of planned sale (plus due diligence items listed in the notice) <u>and at the same</u>, provides notice of planned sale to all tenants. During this period, owner shall not initiate a no-cause eviction.
- HOST will evaluate the property and may send property information to Preservation Partners for their consideration. Seller begins marketing the property and engaging with interested parties.
- 120-day clock starts: Seller has a prospective buyer and sends the city a Contingent PSA. This PSA will include assignment/assumption language for all loans and active covenants plus a city and state ROFR provision.
- The city either exercises or waives their ROFR. If waived, an executed waiver letter will be provided to the seller. The state bill opt-out resolution will be available on the HOST website, in lieu of a certificate of compliance. The waiver letter and the opt-out resolution can be recorded by Title at closing, if desired.
- Prior to closing, the seller must pay off the city loan(s) or the buyer to assume the loan(s) and covenant. This process takes several weeks.

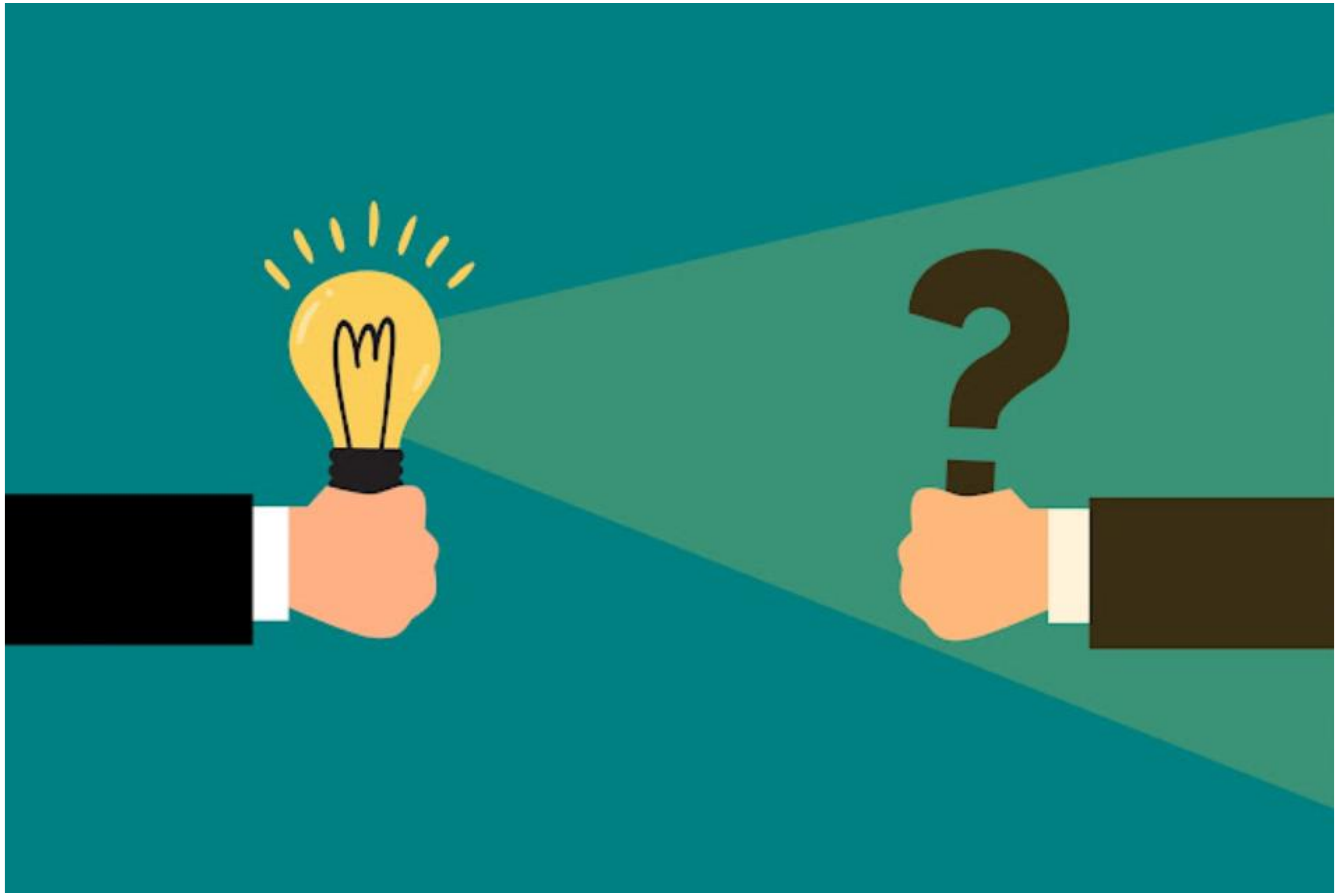
Preservation Ordinance in Action – ROFR (cont.)

- Federal Preservation Projects include properties with federal loans or other financial assistance (e.g. 221(d)4 Loan, GRRP grant), Section 8/HAP contracts, etc.
- If the property has an active covenant(s) that expires within 2 years, the 2-year and 6-month notice requirements still apply. This gives the City the opportunity to engage with the owner to provide long-term affordability.
- If the property has a mix of affordable and market-rate units, the preservation ordinance still applies.
- The preservation ordinance does not cover commercial space.
- The rules and regulations for the preservation ordinance will be updated after the preservation ordinance receives city council approval.

Preservation Ordinance in Action - ROFO

- You are the owner of a 60-unit property that was built in 1985, financed with no government funds or subsidies. You are interested in selling the property.
- 21 days advance notice: The owner sends HOST the notice of intent to sell prior to any public listing/marketing or engagement with interested parties. Notice to include all information listed in the ordinance. At the same, owner to provide notice of intent to sell to all tenants. During this period, owner shall not initiate a no-cause eviction.
- The City or its Preservation Partner has 10 days to express interest in purchasing the property. Then, the seller has 10 days to provide information on the property to the City or its Preservation Partner.
- Once received, the City or its Preservation Partner has 14 days to exercise and submit an offer to the seller or waive their ROFO. In turn, the seller has 14 days to accept or reject offer. It is assumed that all parties will engage in good faith negotiations.
- If the offer is accepted, then the City or its Preservation Partner has 90 days to execute a PSA and 120 days to close.
- If the offer is rejected and no deal occurs, then the City or its Preservation Partner effectively waives their ROFO and the seller to begin marketing their property to the public.
- A ROFO waiver letter can be provided, upon request, and the opt-out resolution will be available on the HOST website (in lieu of a certification of compliance).

Questions?



Appendix

Preservation Ordinance: Right of First Refusal (ROFR) Timeline

TWO YEAR NOTICE: Seller/Owner sends notice to city of expiring federal assistance contract or affordability restrictions

- Notice to include property information and details on the expiring contract or restrictions.
- This notice provides an opportunity for the city to engage with the owner on ways to keep the property affordable.

SIX MONTH NOTICE: Seller/Owner to provide notice of intention for the property to the city.

- Seller to state whether they want to: (1) sell property, (2) recapitalize and keep, or (3) retain and let affordability expire
- This notice provides an opportunity for continued discussion with the owner on ways to keep the property affordable.

Seller to send notice of planned sale and required due diligence items to the city for review.

- Owner cannot initiate a no-cause eviction once notice has been provided to the city.
- Tenants to receive notice of planned sale at the same time as the city.
- If the property has affordability restrictions that expire in 15 years or more, an expedite ROFR can be requested.
- If the restrictions are set to expire 5 years or less, we will market the property to our preservation partners.

90 DAYS TO EVALUATE: The city or its designee has 90 days to evaluate the purchase offer and to waive or exercise the ROFR.

- TRIGGER EVENT: City receipt from the Seller of the contingent Purchase & Sale Agreement (PSA) starts the 90-day clock for the city to determine if it wants to exercise or waive ROFR.
- Once we receive the contingent PSA and all due diligence items are received and reviewed, we typically turnaround a ROFR waiver within one week, barring any unforeseen issues.

WAIVED OR TO CLOSE: The city either waived its ROFR, or the city (or its designee) agreed to purchase property and has 120 days to close.

- Loans must be paid off or assumed by the purchaser at or before closing.
- All existing affordability restrictions must be assumed by the purchaser at or before closing.

Preservation Ordinance: Right of First Offer (ROFO) Timeline

ROFO applies to MR properties that are: (1) at least 30 years old and has between or equal to 15 to 100 units.

21 DAY ADVANCE NOTICE: Seller/Owner sends notice to city of their intent to sell the property

- Notice to include general property information outlined in the ordinance.
- The property cannot be marketed or publicly listed until the 21 days lapse.
- Owner must provide notice to tenants at the same time as notice to the city.
- Owner cannot initiate a no-cause eviction during this 21-day period.

20 DAY INTEREST/INFO SHARING PERIOD: The city (or its designee) has 10 days to express interest to the seller/owner.

- Once interest has been expressed, the seller/owner has 10 days to provide additional information on the property.
- If the city has no interest in purchasing the property, no information is needed from the seller/owner and the ROFR is waived through email or no response.

28 DAY DECISION PERIOD: Once property information has been received, the city (or its designee) has 14 days to review information and to exercise or waive the ROFR.

- This 14-day period provides an opportunity to ask questions on the property, request any additional information on the property, and present an offer to the seller/owner.
- If an offer is made, the seller/owner has 14 day to review the offer and accept or reject.
- If the offer is rejected, it is up to both parties to work towards a mutual beneficial offer, in good faith. Any time used beyond what is stated in the ordinance is determined between both parties.
- If the no offer is accepted, then the city (or its designee) will waive the ROFO.

90 DAY PERIOD - ROFO EXERCISED:

- If seller accepts the offer, then the city (or its designee) has 90 days to execute a PSA and 120 days to close.

HB 24-1175 v. CCD Preservation Ordinance

- The bill states, “Nothing in this Part 12 restricts or supersedes the authority of the local government to enact laws for its jurisdiction providing for the local government’s right of refusal to purchase property for affordable housing that at a minimum comply with this Part 12 and in the event of conflict between a provision in this Part 12 and a local government’s laws, the provision more favorable to the local government applies […] regarding the local government’s right of first refusal.” (29-4-1202(9))

- The bill also states, “If a local government has adopted a long-term affordability requirements that are greater than the requirements set forth in this Part 12, the local governments requirements apply to this part 12. Nothing in this Part 12 overrides any local affordable housing laws. (29-4-1204(5))

- Due to the “unfavorable” timelines, limited assignment to only CHFA or DHA, and the certificate of compliance requirement, CCD will opt-out of the state bill. The CCD Preservation Ordinance will be the prevailing policy for the city’s ROFR and ROFO.

Housing Preservation Policies/Programs in other US cities

- Urban Redevelopment Authority of Pittsburgh, Housing Preservation Program
  - To fund the acquisition, rehabilitation, or operations of existing affordable or NOAH properties
  - Up to $50K/aff. unit; max loan at $1.5 million per project
  - Loan term: 20 – 40 years; Eligible borrowers must contribute no less than $3K/unit in equity to the project
  - Additional requirements apply

- California HCD, Preserving Existing Affordable Housing
  - Began Housing Preservation laws in 1987; expanded in 2017
  - Provides qualified entity (tenant assoc., local NP, govt. entity, or local FP) with affordable housing experience opportunity to purchase, with advance notice (3yrs, 1yr, and 6mos)
  - Applies to properties w/ 5+ units and financed with govt. assistance programs. (some exemptions apply)

- Minneapolis, Affordable Housing Preservation Ordinance (CC approved Oct 31, 2024)
  - Provides the ROFR and ROFO to city approved qualified organizations (NPs and individuals with affordable housing experience)
  - Applies to 1-4 rental units up to a certain assessed value (HUD HOME Limit) and to 5+ units properties, age of 30 years+, and has at least 1 affordable unit at 50% AMI in the last 5 years.

Ways HOST has/is able to negotiate property purchases

- The City has an inherent right to negotiate with property owners to acquire real property for a public purpose (i.e. Real Estate negotiating Hotel Purchases for Homelessness Resolution)

- Similarly, the City has a right to exercise eminent domain for public benefit (Section 3.2.5)

- HOST provides gap-finance for NOAH acquisition for preservation, in accordance with HOST's term sheet. Option to work with approved preservation partners.
  - Example: Villas at Gage Pointe

Villas at Gage Pointe

- Villas at Gage Pointe, located at 8805 E 12^{th} Ave, is an 82-unit property in the East Colfax neighborhood (Council District 8).
- This was a 'Naturally Occurring Affordable Housing' ("NOAH"), a property with no formal income restrictions but affordable rents.
- Unit mix include studios and 1 bedrooms.

- **Twenty-Two Denver 8805, LLC**, a partnership between Ms. Margarita Hart and the Colorado Housing Accelerator Initiative ("CHAI"), acquired the property in June 2023.

- Twenty-Two Denver 8805, LLC sought $2,050,000 in City funding to support the acquisition and to ensure the property remains affordable. Loan closed Sept 2023.

FINANCING

- Twenty-Two Denver 8805, LLC sought a $2,050,000 repayable loan. This is 15% of the total development cost and $25,000 per City-restricted unit.
- Loan has a 1% interest rate for a 30-year term.
- All 82 units are income restricted for 60 years: 41 units at 60% AMI and 41 units at 80% AMI.*

Source	Amount	% of Total
Impact Development Fund	$7,300,000	52%
CHAI Debt Fund	$1,500,000	11%
HOST	**$2,050,000**	**15%**
Owner Equity	$3,169,940	23%
Total Project Cost	$14,019,940	100%

*AMI = HUD Area Median Income

Unit Type	% AMI	# of Units
Studio	60%	4
Studio	80%	3
1 BR	60%	37
1BR	80%	38
	Total	**82**

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