2026 Housing Preservation Ordinance

Community Planning & Housing 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.

Between 2019 and 2025, we have helped preserve 1,443 affordable units citywide, thanks to the Preservation Ordinance.

Since 2019, the city has exercised their ROFR right once to preserve a 6-unit property. The property was sold to ECLT.

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 (see chart on appendix slide 20).

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

Why Update the Preservation Ordinance?

- **Alignment with new State law (HB 24-1175)**
  - HB 24-1175 outlines the process for local governments to exercise or waive their Right of First Refusal (ROFR) and Right of First Offer (ROFO) for existing properties.

- **Current Preservation Ordinance scope is narrower**
  - Focused on existing affordable, multi-family development -- preserving affordable housing units across the city. Ordinance expanded to add ROFO section for existing, market-rate properties.

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

Preservation Ordinance Highlights

2026 Updates

- 99-year minimum affordability period for all city subsidized affordable housing projects (prev. 60 years)
- Right of First Offer section (Applies to all market-rate properties with at least 15 units and at least 30 years old)

Opt-Out Resolution

- Denver will opt-out of State Bill 24-1175 pursuant to C.R.S.§29-4-1204(5)

2026 Preservation Ordinance – Summary of Proposed Changes

Proposed Change	State Bill	Current Ordinance	Proposed Ordinance
Added Definitions	○ Has a set of definitions applicable to the bill language ○ Local govt can assign ROFR and ROFO to CHFA or DHA	○ Not Included	○ CHFA & DHA ○ Commercial Space ○ Contingent Sales Agreement ○ Designated Preservation Partner ○ Market Rate Property ○ Notice of Intent to Sell
Federal Preservation Project (ROFR) - *applies to govt. subsidized housing of 5 units or more*	○ 2-year notice ○ 6-month notice ○ *Notices sent to city & CHFA* ○ 14 day notice of aff. expiration or intent to sell or transfer	○ 1-year notice ○ 90-day notice ○ *Notices sent to city & all tenants* ○ No-cause eviction requirements	○ Change 1-year notice to a 2-year notice and added a 6-month notice ○ No change to the 90-day notice ○ No changes to tenant notification and no-cause eviction requirements
Local Preservation Project (ROFR) - *applies to govt. subsidized housing of 5 units or more*	○ 2-year notice to the city ○ 6-month notice to the city ○ *Notices sent to city & CHFA* ○ 14 day notice of aff. expiration or intent to sell or transfer	○ 1-year notice ○ 90-day notice ○ *Notices sent to city & all tenants* ○ No-cause eviction requirements	○ Change 1-year notice to a 2-year notice and added a 6-month notice ○ No change to the 90-day notice ○ No changes to tenant notification and no-cause eviction requirements

2026 Preservation Ordinance – Summary of Proposed Changes

Proposed Change	State Bill	Current Ordinance	Proposed Ordinance
Added ROFO section – *applies to all market-rate properties*	○ 15 units to 100 units and at least 30 years old ○ Seller sends notice of intent to sell to city & CHFA. ○ 7 days: City to express interest or waive ROFO. ○ 5 days: If interest is expressed, seller to provide due diligence items. ○ 14 days: City to make offer or waive right. ○ 14 days: Seller to accept or reject offer. ○ 30 days: To execute a PSA ○ 60 days: To close transaction or by mutually agreed date	○ Not Included	○ At least units 15 and at least 30 years old ○ 21-day: Seller sends notice of a planned sale or intent tomarket property. Ordinance provides notice requirements. ○ 10 days: The City, or its Preservation Partner to provide notice of interest. ○ 10 days: Seller to provide due diligence items. ○ 14 days: The City or its Preservation Partner to exercise or waive their ROFO. ○ 14 days: Seller to accept or reject the offer. ○ 90 days: To execute a PSA. ○ 120 days: To close transaction. ○ Added tenant notification and no-cause eviction requirements, same as ROFR.

2026 Preservation Ordinance – Summary of Proposed Changes

Proposed Change	State Bill	Current Ordinance	Proposed Ordinance
Affordability Requirements	○ Minimum of 40 years; does not prevent local governments from setting greater aff. requirements	○ 60-year covenant on all city subsized affordable housing properties	○ Proposing 99-year covenant on all city subsidized affordable housing properties. Effective July 1, 2027. ○ Does not apply to Emergency Maintenance grant program. Requirements set by annual term sheet.
Enforcement	○ Local govt to bring civil suit against Seller ○ Material violation(s): $10K to $30K each, up to max. $100K penalty ○ Attorney fees paid to prevailing party	○ Levy city fines ○ Place a lien on property ○ Add penalities in existing city agreements	○ No change
CCD Preservation Policy	○ Effective 08/07/2024 ○ Sunset on 12/31/29	○ Effective 01/30/2019 ○ No sunset date	○ Effective 05/30/2026 or later (pending CC approval) ○ No sunset date

Stats & Enforcement of the City's ROFR/ROFO

- **Properties affected by ROFR and ROFO**
  - Approx. 510 properties meet the ROFR criteria (per HOST dashboard)
  - Approx. 1048 properties meet the new ROFO criteria (CoStar, 1996 or older)

- **Enforcement -** *Applies to all properties that meet the ROFR or ROFO criteria, as applicable*
  - (1) City Fine:The City can levy a $15,000 civil fine for each separate violation.
  - (2) Notice of Violation: CCD reserves the right to record a Certificate of Non-Compliance - which constitues as a lien against the property.
  - (3) Exaction of Penalities included in Existing CCD Agreements: penalities for non-compliance may be included in existing loan agreement, DOT, or Covenant.

Opt-out Resolution

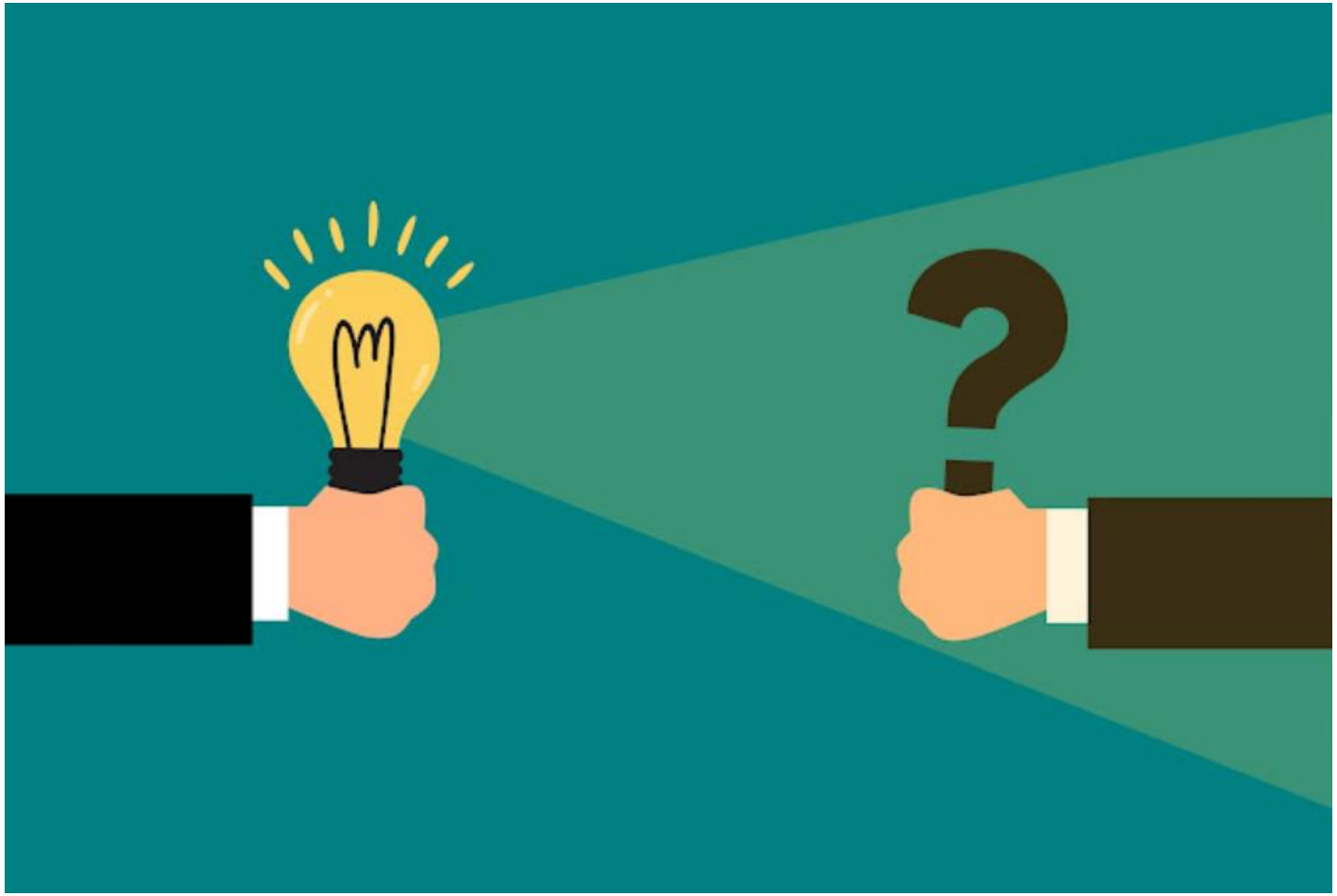
The bill states, “Nothing in this Part 12 restricts or supersedes the authority of the local government to enact laws for its jurisdiction providing for the local government’s right of refusal to purchase property for affordable housing that at a minimum comply with this Part 12 and in the event of conflict 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.

Preservation Ordinance Approval Timeline

Questions?



Appendix

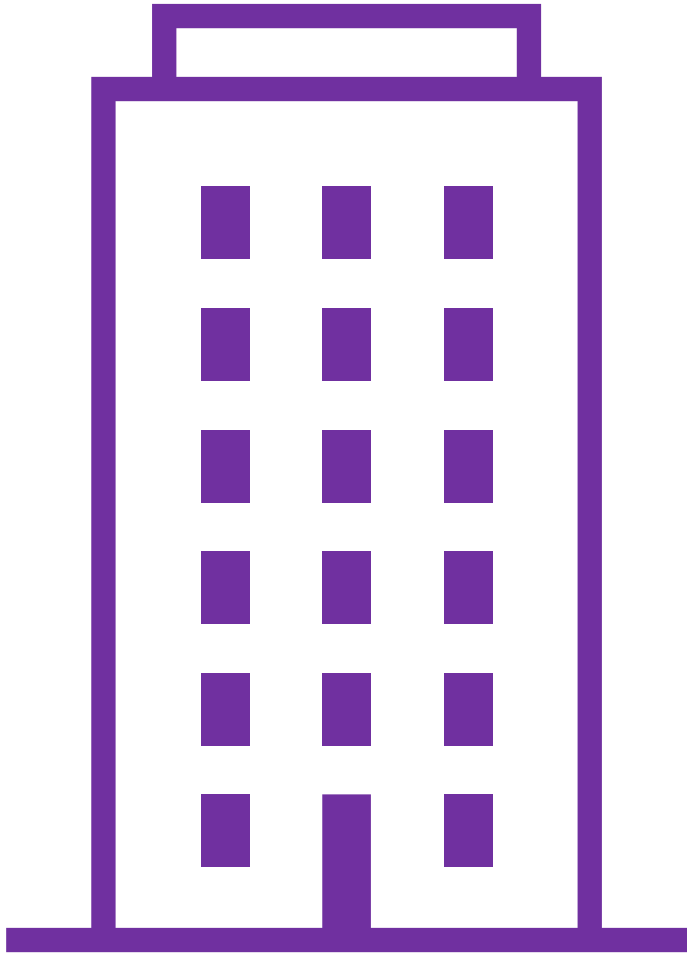
Preservation Ordinance in Action (ROFR)

You are the owner of a 60-unit affordable property. This is considered a local preservation project. You are interested in selling the property.

90-day notice: Owner sends HOST and all tenants notice of planned sale. During this period, owner shall not initiate a no-cause eviction.

HOST evaluates the property and consults with partners; seller markets property.

120-day clock starts: Seller has a prospective buyer and sends the city a Contingent PSA. City either exercises or waives the ROFR.



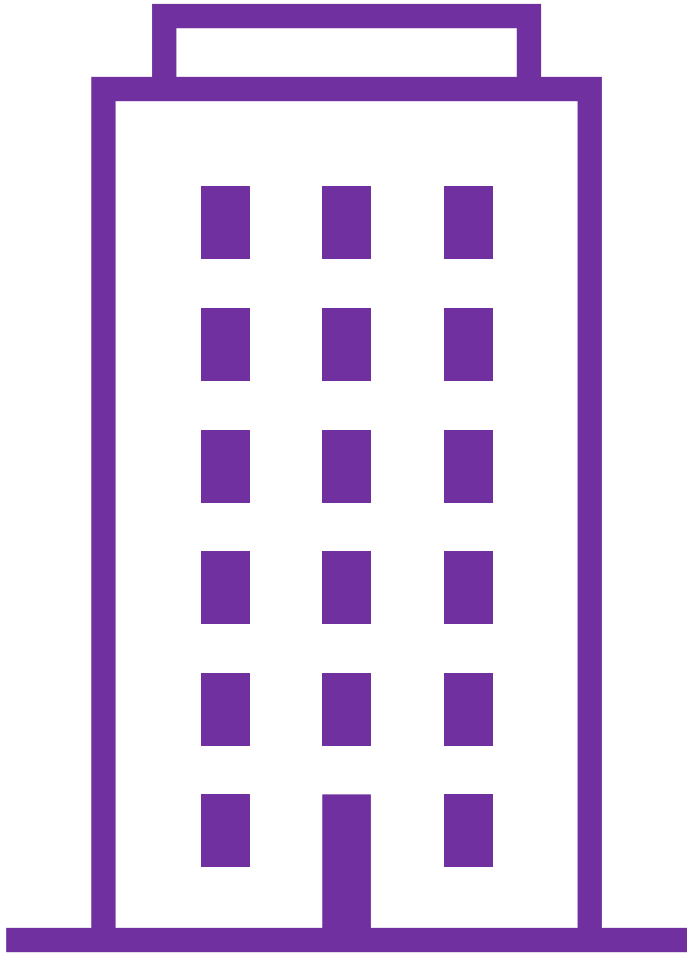
Preservation Ordinance in Action (ROFO)

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-day advance notice: Owner sends HOST the notice of intent to sell prior to any public listing/marketing or engagement. During this period, owner must also notify tenants and shall not initiate a no-cause eviction.

The City or partner has 10 days to express interest. Then the seller has 10 days to provide information on the property to the City or its partner.

The City or its Preservation Partner has 14 days to exercise and submit an offer to the seller or waive the ROFO. In turn, the seller has 14 days to accept or reject the offer.



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.

Background: Housing Preservation Gap Funding Support

Acquisition/Preservation Loan		Grants	
HOST $/unit for all affordable units in the building is based on # of 30% AMI units			
Land Acquisition/ Predev	NOAH MF Acquisition/ Rehab	Supportive Services	Emergency Maintenance
Land banking	Acq/rehab	Grant	Grant
$3,000,000	$3,000,000	$2,000,000	$250,000
$5,000,000	$7,500,000	N/A	N/A
N/A	$25,000-$75,000/unit	$1,500 PUPA	N/A
N/A		N/A	
99 years	60 years	Requires 60 year covenant	
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.	N/A	
2 years	2 years w/ 1 year extension	Pro-rated over 15 years	3 Months
1.05		N/A	
95%		N/A	
Interest Only	Up to 35 years	N/A	

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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 12th 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**