**TO:** Two Rivers Ottauquechee Regional Commission
**FROM:** Vermont Department of Housing & Community Development
**DATE:** July 15, 2026
**RE:** Regional Plan Pre-Application
**SUBJECT:** ADDENDUM TO FORMAL REVIEW AND COMMENT BY DHCD

## Overview

This memo is an addendum to the formal review and comment provided by the Department of Housing & Community Development (DHCD) on July 7, 2026.

## Regional Plan

The Department has further reviewed the Two Rivers Ottauquechee Regional Commission draft Regional Plan. The Department would like to raise concerns about elements of the draft plan which are overly prescriptive, discourage rural housing, and represent mandates to municipalities. The Department wishes to emphasize the importance of goals and policies in the regional plan that support meeting state, regional, and municipal housing targets. Recognizing the rural nature of this region, some of the policies do not support the need for rural housing production to be a component of increasing the overall housing stock of the region. In particular, the Department has general discomfort with attaching Land Use regulations to the Future Land Use Areas via this Regional Plan.

This regional plan makes frequent use of the term “shall”, particularly in the *Policies* which appear to represent a mandate, whereas the Department would view the plan as a guiding and advisory policy document.

**Example: Village Areas, *Policies***

> *“5. New development in Village Areas must not place undue burdens on municipal or regional facilities, utilities, and services, including transportation systems.*
>
> *6. New development in Village Areas shall be planned to be reasonably compatible with existing development, preserve buildings of historic, architectural, or engineering significance, and not unduly impact the character of the area.”*

The above policies present concerning language in the use of “shall” as directive language, as well as the use of “character of the area.” The state has long sought to shift away from “character of the area” and towards clear and objective language as a mechanism for regulating development. So called “character tests” are ambiguous and have a history of disproportionately being utilized to discourage affordable residential development. As evidence of this shift in state policy, the HOME Act has reduced the applicability of “character of the area” as grounds for appeal of certain residential permits.

Additionally, Village Areas represent historic settlement patterns and are appropriate areas for increased housing density and planned public investment, which may require increased demand for municipal and regional service, utilities, and transportation infrastructure and programs.

**Example: Homes in the Region, *Policies***

As referenced in the prior Department comment, submitted on July 7, 2026, a key concern of the Department is ensuring that regional plans are consistent with the established housing targets. Specifically, that means we have an interest in ensuring that the areas eligible for Act 250 exemption are large enough to accommodate a substantial majority of the region's housing targets, and that any housing regulations at the local level or policy included in the regional plan do not unreasonably constrain housing development outside of potential Tier 1A or 1B areas – that includes in *Rural General* future land use areas.

> *"7. Housing developments of 10 or more market rate units subject to Act 250 must include at least one affordable unit per nine market rate units.*
>
> *…*
>
> *12. New housing projects subject to Act 250 shall minimize additional financial burden on municipalities and taxpayers by only locating with access onto paved roads.*
>
> *…*
>
> *19. Any public investment in public and private housing subject to Act 250 for the elderly, disabled, and low- or moderate income families shall be directed into core settlements, or areas within one mile of these along state highways and transit routes, and away from unsettled rural areas where no services exist."*

These policies would likely constrain housing development in much of the region, including in *Rural General* FLUAs which are intended to account for 75% of new housing in rural communities according to the plan.

In policy 7, including the use of the term "must", represents a region-wide mandate for inclusionary zoning. The Department does not interfere with municipalities that choose to explore versions of inclusionary zoning at the local level, however, this provision as a region-wide mandate represent a potential regulatory constraint that could discourage housing development in the region and make the TRORC region an outlier amidst an already constrained housing market. While there is a robust debate to be had about inclusionary zoning, there is broad consensus on all sides that *unfunded* inclusionary zoning – as is represented by the above-cited policy – reduces overall unit production.

**Example: Rural General Areas, *Policies***

> *"2. Except along paved roads, development density shall not be greater than one principal structure (which could contain several housing units) per two acres to maintain*

*rural character. Density is not minimum lot size. Lot sizes are encouraged to be as small as private wells and septic systems allow in portions of subdivisions so as to preserve a larger portion of the remaining lot as undeveloped and still meet overall density goals.*

*…*

*3. New freestanding, individual multi-unit residential buildings containing five units or less per structure may be located along Class 3 or better roads in order to stay in keeping with rural scale. A development may contain more than one such multi-unit building. New Individual buildings with more than five residential units shall not be located in this Area. This unit limit does not apply to adaptive reuses, or to rooms in senior care facilities, outdoor recreation, or lodging establishments.*

*…*

*12. Subdivisions in the Rural General Areas shall be designed to take reasonable steps to minimize accesses onto public roads, and projects that would create traffic demands that require the paving of rural gravel roads shall not be located in Rural General Areas."*

The above referenced policies further constrain development in *Rural General* areas by imposing new land use regulations with the use of "shall" which reaches beyond the intent of Act 181 of 2024 and does not reflect the lessons learned which led to Act 152 of 2026. Furthermore, statute does not require that FLUAs are consistent with municipal zoning districts. Policies that create minimum lot sizes or prescribe the density and form of development could inappropriately pre-empt municipal regulations and constrain housing development below what a community has envisioned and allowed for.

It would behoove the region to take the time to revise elements of this plan which are overly prescriptive, represent mandates to municipalities, impose additional regulatory constraints to Future Land Use Areas, or discourage the production of residential units in rural areas.