



VIRGINIA
MAIN
Street
VIRGINIA DEPARTMENT
OF HOUSING AND
COMMUNITY DEVELOPMENT

Upper Story Residential Tech Sheet





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Since the beginning of the Main Street program in the early 1980s, downtowns have reemerged as the place for the experience of a community including shopping, dining and entertainment. They have also become more desirable as a place to live, particularly from the perspective of being an attractive and walkable environment. Downtowns have the potential for a diversity of housing stock and residents, which then supports local businesses and bolsters additional private and public investment.

Our historic downtowns have a variety of building types from typical commercial buildings to government buildings such as city halls and courthouses, as well as churches, banks, theaters, warehouses and industrial buildings. While housing has been implemented in many different types of buildings, this tech sheet is designed to give some inherent parameters for considering upper-story housing potential in typical historic downtown commercial buildings.

Parameters for considering housing in typical commercial buildings include type of building construction, access, number of stories, zoning, building code requirements, and historic considerations. Other aspects for upper-story residential units could include overall underlying economic drivers in the community or region such as institutions, industry and the trend to remote working, current building owner, construction costs, availability of contractors, and potential rent.



1. Typical Historic Downtown Commercial Buildings

These buildings are typically:

- Mixed-use with commercial on the first floor and a variety of uses on the upper floors including inventory storage in the old days, offices, and residential;
- 1 to 3 stories tall;
- 1, 2 or 3 storefronts wide;
- Upper-story access is either a separate doorway and stair from the front sidewalk, rear entrance with separate door and stair, or an interior stair connected to the first floor commercial space.

2. Zoning Essentials

Typically zoning in downtowns allows commercial use on the first floor and residential uses on upper levels. Some communities may allow variances for residential on the first floor if the residential use is at the rear of the first floor with its own rear entrance or if the building is on a side street with very little business activity. These variances are typically on a case-by-case basis and are dependent on local conditions and code officials.

Parking requirements generally are waived in downtowns, but again this condition would need to be verified in the local zoning ordinance. A bed & breakfast use, for instance, may have other requirements. Sometimes a downtown commercial building may have a rear service area that can, perhaps accommodate a few parking spaces for residents. Often times, however, if someone wants to live in a walkable downtown, they may not be concerned that there is no parking at the front door. In these cases, there are likely parking lots or parking garages where residents can rent a space, whether public or private.

3. Building Code Essentials for Upper-Story Residential

Creating upper-story residential units in historic commercial buildings will likely require a building permit and property owners should contact the building services department in their community before proceeding with any plans. In Virginia, the *Virginia Existing Building Code (VEBC)* is used for existing building projects such as historic commercial buildings. Special provisions and exceptions that apply to historic buildings are included in Chapter 9. This chapter applies if the building has “contributing” status in a historic district or is individually listed on the national and/or state historic registers and maintains the status after the renovation. This code chapter may permit the retention of non-code-compliant historic elements such as doors, transoms, guardrails, stairs and corridors to remain under certain conditions.

See **Building Code Appendix** at the end of this publication for more details on the current building code and how it may apply to upper story housing projects.

4. Underlying Economic Drivers

There are a number of economic drivers that can help determine the type and quantity of residential units and the potential tenants. These drivers may attract interest from small or large developers or both. Some of them may include:

- Adjacency to larger metropolitan areas. A smaller community may be within an easy commuting distance and, with the recent pandemic and more people working from home, nearby smaller communities are becoming more desirable;
- Regional industry;
- Institutions such as colleges and hospitals;
- Government center for region;
- Tourism hub and attractions, and
- Good access to medical services and interstates.

Resources such as the local planning or economic development departments can provide more insight into the local economic drivers.

5. Historic Designation and Historic Tax Credits

The majority of Virginia’s downtowns have been listed on the National Register of Historic Places and the Virginia Landmarks Register, making projects eligible for federal and/or state historic tax credits. A building needs to be designated as contributing to the historic district for federal credits and needs to be considered eligible for listing (if not already listed) for state credits. It is important to note that in order to take advantage of the credits, the project -including interior and exterior changes and improvements- must meet *The Secretary of Interiors Standards for Rehabilitation*. A Historic Preservation

Certification Application including drawings and description of work, should be submitted and approved prior to any demolition or construction. “Before” pictures of all interior spaces and the exterior are required. It is important to note that there are different spending threshold requirements and holding periods for the Virginia and federal credits. For more information on the historic tax credits visit: <https://www.dhr.virginia.gov/tax-credits>.

On the local level, some communities have local historic districts with local architectural review boards which may require a certificate of appropriateness for proposed work. These boards review only exterior changes or improvements to historic buildings in the locally designated district.

6. Building Owners

The character of downtown is driven by not only the unique historic architecture but its variety of ownership. Here is a summary of possible ownership types in a smaller community.

A. Owner occupied or In-Town Owner

Many smaller historic commercial buildings have an independent commercial business on the ground floor which is an income producer for the building owner. Sometimes the building owner occupies the first floor and the upper floors are unoccupied or the owner occupies the upper-story as an office and rents out the first floor for income. If upper stories are vacant and unused, understanding how to develop the building and generate income would be the next step for the property owner.

B. Family Trust or Out of Town Owner

Sometimes multiple downtown buildings are owned by a family trust which leaves maintenance to a family representative

or company, or the property is owned by someone who is not a local resident. These owner types are likely receiving income from current tenants and maintain the buildings for that purpose. Upper-story housing could potentially be a new income-producing use for this type of owner.

C. Institutional

Universities, large companies, federal, state, county, or local governments, churches, banks and other institutions, may own a good portion of downtown buildings, some of which may be the typical historic commercial buildings being discussed here.

D. Recently Purchased - Developer or Owner Occupied

These owners are already on the move to renovate the historic property and may already see the potential for upper-story living in the historic downtown.

7. Potential Developers

A. Owner Occupied

Many times, a building is developed by the property owner for their own living unit. There may be several additional units that are rented out or sold as condominiums. The first floor commercial area is either rented out or sold as a condominium as well. Typically, the owner will use the historic tax credits on this type of development, but since this is also their home, they may be willing to spend more on the rehabilitation. (You can use the Virginia, but not federal credits on owner-occupied residential uses.) This type of development is seen in all types of downtowns no matter the driving economic base. However, the overall appearance, vitality and character of the downtown make it a place where this type of resident wants to be. These property owners can range from retiring boomers moving back home to young millennial business owners who want to live and work in their downtown historic building.

B. Local Small-Scaled Developer

These developers are comfortable with smaller building development and are not living in the building. Many times, they are developers who buy, renovate and sell houses in historic neighborhoods adjacent to downtown and see the opportunity in developing smaller historic commercial buildings. Many times, they take advantage of using the historic tax credits.

C. Large-Scale Developer

Multi-story building and large warehouse building projects with the potential for multiple units may be attractive to the larger scale developer. They will use the historic tax credits and other available financial incentives to help finance the project. The community's economic base such as colleges or proximity to larger urban areas often needs to be able to support this kind of development.

8. Construction Costs/Potential Rents

- Construction materials whether in a small or large city may cost roughly the same. Smaller communities may have fewer contractor resources than larger communities; however, the local contractor in a small community may be more affordable than a larger contractor in larger communities. It pays to have drawings of the proposed rehabilitation work to a level where a reasonable cost estimate can be made no matter the size or location. In addition, many times, developers, whether large or small, may have their own construction crews which helps keep costs in check.
- Rents are generally less in smaller communities or in communities that don't have the demand for rental housing. This factor can make it more difficult for small development projects to pencil out. Hence, this is why some smaller developments tend to be owner-occupied and thus successful projects in smaller communities.

In closing, there are many factors that affect developing upper stories of historic downtown commercial buildings into housing, but more and more, this type of redevelopment is happening in both large and small downtown areas. The goal of this tech sheet is to provide some tools to encourage more of these projects in Virginia's historic downtowns.

ONE UNIT EXAMPLE

- ◆ Typical two-story downtown commercial building with single storefront and separate entrance to second floor.
- ◆ Second floor converted from offices to apartment.
- ◆ Historic tax credits were used.



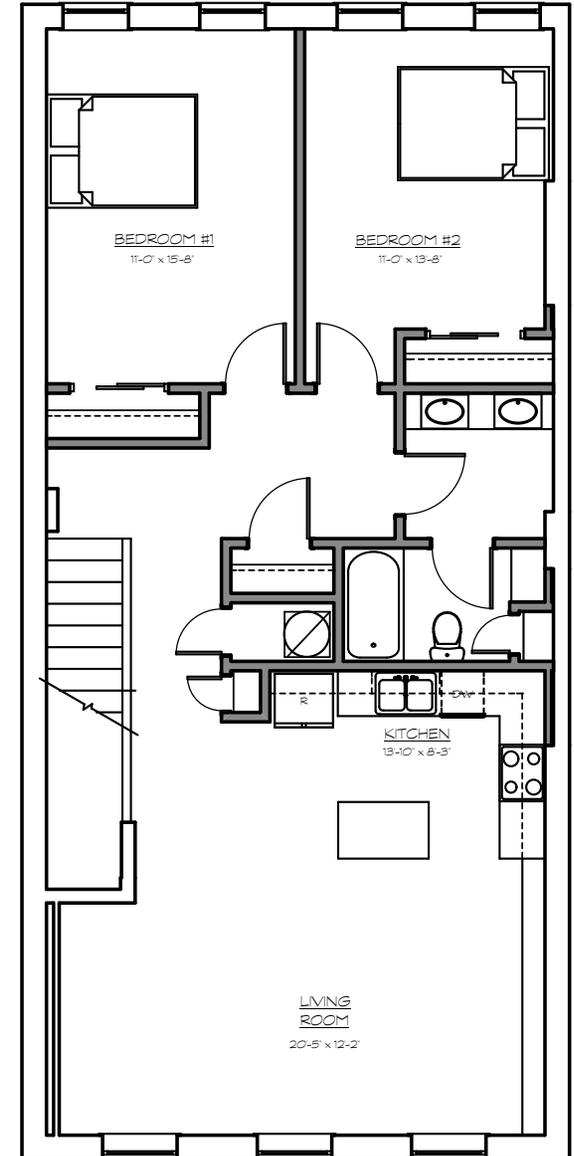
Front of building after renovation. Door to second floor on left. Living room space is at the front of the building.



Front room that was originally an office is now the living room. Paneling and shelves were retained.



Living room also includes the kitchen. New kitchen cabinets blend with the existing paneling.



Front of Building

The utility areas including bathroom and kitchen are located in the center of the floorplan allowing the living room and bedrooms to have windows.

TWO UNITS

- ◆ Typical two-story downtown commercial building with two storefronts.
- ◆ Separate entrance to second floor.
- ◆ Owner occupied second floor unit on left.
- ◆ Second unit on right was made into a condo.
- ◆ Converted from offices on left and restaurant on right.
- ◆ Roof decks added for outdoor spaces.
- ◆ Historic tax credits were used.



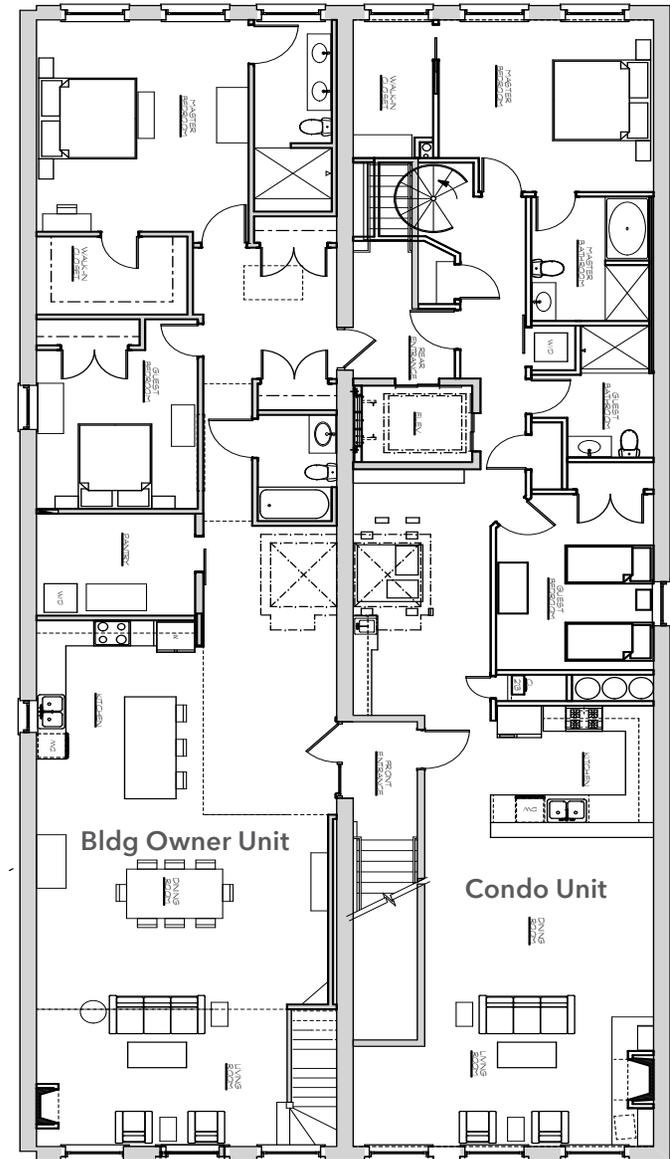
Exterior showing entrance to second floor (left).
Building owner unit (above) after renovation.



Condo unit.



Roof deck.



Front of Building

The utility areas including bathroom and kitchen are located in the center of the floor plan allowing the living room and bedrooms to have windows.

MULTI-UNIT

- ◆ Multi-floor, multi-unit project.
- ◆ Converted from offices to apartments.
- ◆ Historic tax credits were used.
- ◆ Second means of egress required.
- ◆ Sprinkler system required.



Building after renovation.



Sample interior before renovation.



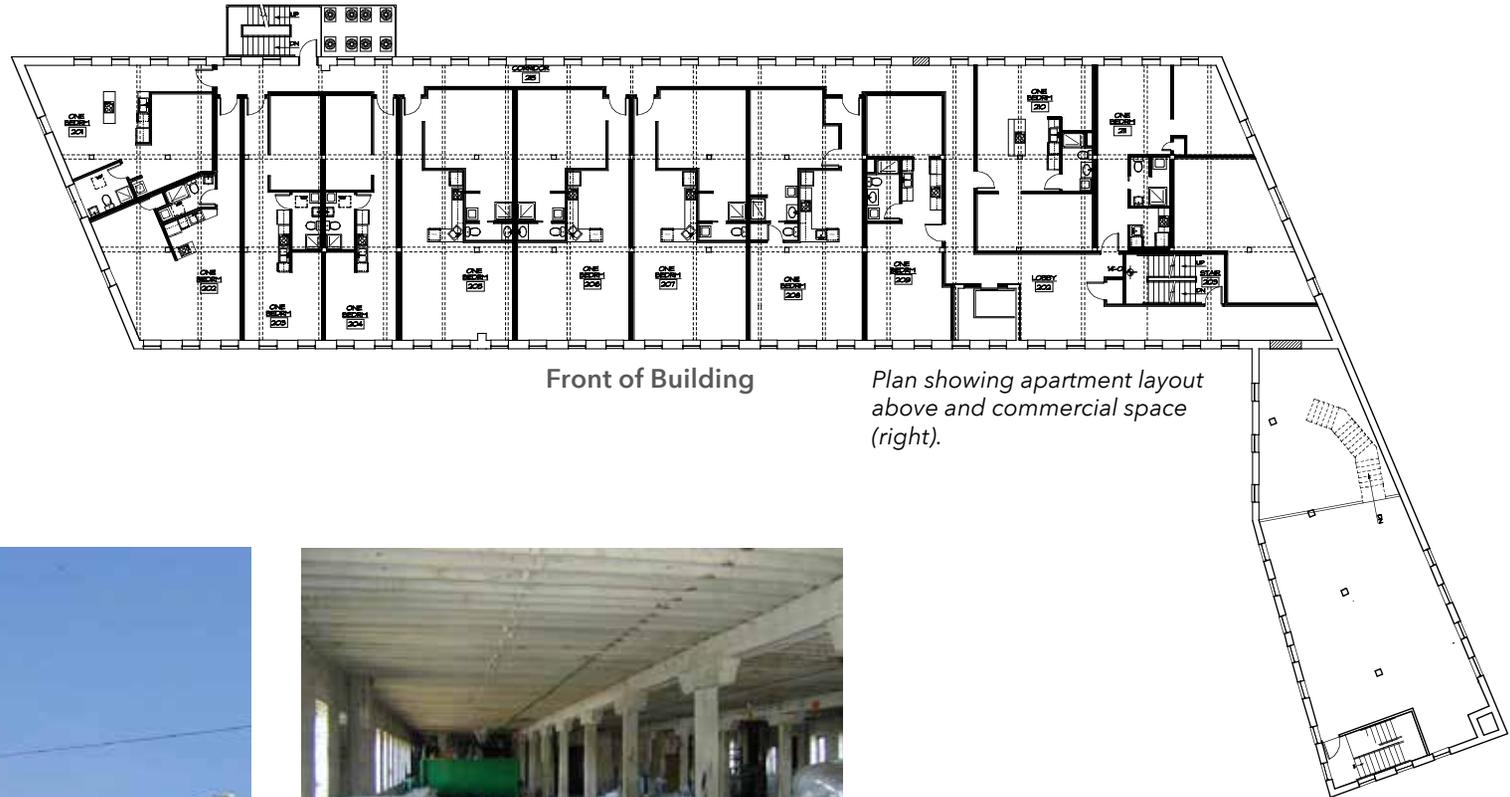
Sample interior after renovation.



Front of Building

MULTI-UNIT

- ◆ Multifloor, multi-unit project.
- ◆ Converted from factory/warehouse to apartments.
- ◆ Historic tax credits were used.
- ◆ Second means of egress required.
- ◆ Sprinkler system required.



Views of exterior (left) and interior (above) prior to renovation.



Interior view of a typical apartment after renovation.

Appendix - Building Code Reference

(As of 12-31-2020)

Currently, the 2015 version of the Virginia Existing Building Code (VEBC) is in effect and code references in this section refer to that edition of the code. All of the following interpretations are subject to approval by the local code official.

The intent of this section is to give a general outline of building code essentials, but each existing historic building will have its own particular existing conditions that will have to be addressed in the renovation. In short, here are some areas to be considered:

A. Use Groups

B. Construction Type

C. Alterations Level

D. Change of Use

E. Fire Protection/Fire-Rated Separations

F. Egress (Egress is how occupants exit the building from each floor).

G. Accessibility

A. Use Groups

Different types of occupancies are classified as different use groups in the building code. Most typical downtown commercial buildings are considered "Mixed-Use". The uses on the first floor are often office (B for Business), restaurant (A for Assembly) or retail (M for Mercantile) with residential (R) on the upper levels.

Use Group/Occupancy type for upper-story residential include the following categories:

R1 = Hotel - short term

R2 = Apartments - long term (more than 2 dwelling units)

R3 = No more than 2 dwelling units

R3 = B&B's can also be classified as R-3 (with limitations on occupancy)

B. Construction Type

The construction type is defined in the building code and has an impact on the allowable size of the building and required fire ratings. Typically, historic downtown commercial buildings are Type III with solid masonry perimeter walls with interior wood framing. While this is typical, it is not the only construction type found in downtowns and will need verification.

C. Alterations Level

The higher the level of alterations to the building, the higher the level of code requirements. The levels, from lowest to highest are:

- Repairs - the reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.
- Level 1 - doors and/or partitions stay in place and are not removed or moved; Level 1 alterations include the removal and replacement or the covering of existing materials, elements, equipment, or fixtures using new materials, elements, equipment, or fixtures that serve the same purpose.
- Level 2 - doors and/or partitions can be moved and/or any system or equipment added or extended in up to 50% of the building area.
- Level 3 - doors and/or partitions can be moved and/or any system or equipment added or extended in entire floor area.

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D. Change of Use

If the use of the building changes, say from office (B) to low occupancy residential (R-3), an additional code section with additional requirements (VEBC Chapter 7) applies. If only a portion of the building changes, the additional requirements only apply to that area.

More code requirements apply if changing to a more hazardous occupancy as outlined in this chapter. If the use of the building is changed to residential on the upper floors, a sprinkler system usually is required.

A compliance alternative code test (VEBC Chapter 14) can sometimes be used to evaluate the overall risk in the building. The small buildings in historic downtown areas often do well in this test because the risk of the building is related, in part, to its size. For certain buildings, use of this test may result in avoiding the sprinkler requirement or other provisions of the code that may be an obstacle to renovation.

E. Fire Protection/Fire-Resistance-Rated Separations

Fire protection systems include sprinklers, and fire and smoke alarms. Fire resistance-rated separations are wall, floor and ceiling construction built to a standard that provides protection in case of a fire. These code requirements depend on a number of factors and are often related.

Historic commercial buildings are usually “mixed-use” with different use groups on the ground and upper levels. A fire-resistance-rated “mixed-use separation” is required unless a “non-separated” approach is taken. (A fire-resistance-rated separation may still be required due to other requirements, some of which are noted below) In the “non-separated” approach,

the requirements of the most restrictive use are applied to the entire building.

In residential uses, fire-rated separations are typically required at corridors and between floors at dwelling and sleeping units separations. This requirement may be reduced in some situations when a sprinkler system is installed.

Existing construction such as plaster walls and ceilings can sometimes qualify as fire-rated construction in historic buildings. Smoke alarms are typically required in all residential uses.

Sprinkler systems are typically required in R-1 and R-2 when over 50% of floor area is being rehabilitated or if the use is changed to residential from another less restrictive use. Sometimes a sprinkler system is not required in R-3 (two-unit) rehabilitation projects (but may be required if there is a change of use, as noted above).

While the anticipated cost of sprinkler systems sometimes deters small developments, there are benefits of a system such as increased allowable travel distance to exit(s), reduced fire separation requirements, etc. A less restrictive residential-type system can sometimes be used which requires fewer sprinkler heads, allows plastic piping etc.

Many times, a historic commercial building will have an open stair to the upper floors. While the building code prefers to see these types of stairs enclosed, this requirement can impact the historic character of the building. There are a variety of provisions and strategies that address this situation which will depend on the height of the building, its occupancy and whether it has (or will be required to have) a sprinkler system.

Appendix - Building Code Reference

F. Egress

A means of egress is a continuous and unobstructed way out of a building from any point in a building. In R-1 and R-2 residential uses, a second means of egress is required when the building is more than two stories, there are more than 4 dwelling units per floor and travel distance to the egress exceeds 50 feet. A second means of egress is not required for R-3 (two units). Egress from upper floors consists of code compliant stairs and corridors (or fire escapes in limited instances per VEBC 303). Elevators typically do not meet the requirement for one of the required exits. Bedrooms are often required to have emergency escape windows with at least a 4 square foot opening.

G. Accessibility Considerations (i.e. elevators, ramps etc.)

Providing handicap accessibility to the building is required to be part of the scope of the project. Work necessary to make accessibility improvements to altered areas will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area (VEBC 404.3). Improvements are not required when they are "technically infeasible." Certain exceptions to accessibility requirements for historic buildings can be made if the requirements would destroy historic character (VA Code ANSI 117.1)

In order of priority, the following improvements to the accessibility of the building should be made:

1. At least one accessible building entrance.
2. At least one accessible route from an accessible building entrance to the primary function area.
3. Accessibility signage.

4. Accessible parking.
5. Accessible route from the sidewalk and parking to the accessible entrance.
6. Restrooms along an accessible path.
7. Type A dwelling units - Type A accessible dwelling units are not required unless there are more than 20 units.

New levered door hardware and compliant alarm systems etc. are considered ADA improvements.

Elevators are not required when the aggregate area of stories and mezzanines above and below accessible levels is less than 3000 SF per floor (VCC1104.4).