

**HOUSE . . . . . No. 3891**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Michelle L. Ciccolo*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to establish a surcharge on specific commercial development activities for the purpose of funding the creation of community housing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>5/5/2021</i>

**HOUSE . . . . . No. 3891**

By Ms. Ciccolo of Lexington, a petition (accompanied by bill, House, No. 3891) of Michelle L. Ciccolo (by vote of the town) that the town of Lexington be authorized to establish a commercial linkage fee to certain commercial construction building permits issued by said town for the purpose of affordable housing. Housing. [Local Approval Received.]

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act to establish a surcharge on specific commercial development activities for the purpose of funding the creation of community housing.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1: In order to mitigate the impact of the increased demand for housing  
2 generated by employees of new commercial development wanting to live within Lexington, a  
3 commercial linkage fee, hereafter referred to as "the community housing surcharge" or "the  
4 surcharge," shall be added by the Town of Lexington to all commercial construction building  
5 permits issued by said town for non-municipal structures with a gross floor area more than thirty  
6 thousand (30,000) square feet. The surcharge shall apply only to the floor area of new  
7 construction or modification to existing structures in excess of thirty thousand (30,000) square  
8 feet ("excess gross floor area"). For building permits that authorize modification of existing  
9 structures, the building commissioner of the Town of Lexington shall determine the applicable  
10 excess gross floor area. If the building permit authorizes both commercial and residential uses,

11 the square footage of the structure dedicated to residential use shall not be included in the  
12 calculation of excess gross floor area for purposes of this Act.

13 SECTION 2: The Select Board of the Town of Lexington shall determine the amount of  
14 the community housing surcharge, which shall be applied on a dollars-per-square-foot basis on  
15 the certified total excess gross floor area of the structure or structures permitted by an applicable  
16 building permit. The Select Board shall prepare a study to determine the initial surcharge rate  
17 range and shall set an initial surcharge rate within twelve (12) months of the effective date of this  
18 act. The Select Board or its designee shall adjust the rate of the surcharge annually for inflation.

19 SECTION 3: The Town Manager of the Town of Lexington or their designee shall  
20 prepare a study every five (5) years to determine the suitability, effect, and amount of the  
21 surcharge, and recommend to the Select Board any possible changes necessary to address  
22 changing demand for community housing. The Town Manager or their designee shall also  
23 prepare and issue an annual report that identifies surcharge receipts, quantifies the attributes of  
24 community housing projects funded by the community housing surcharge, and evaluates the  
25 impact of said housing projects.

26 SECTION 4: The Select Board of the Town of Lexington may adopt additional  
27 requirements, exemptions, and regulations to implement or enforce said community housing  
28 surcharge, consistent with this act.

29 SECTION 5. The community housing surcharge required by this act must be paid in three  
30 (3) equal installments whose amounts shall be determined at the time of levy, with one payment  
31 required per annum. The building commissioner of the Town of Lexington shall not issue a  
32 certificate of occupancy Town of Lexington for real property subject to this act before the first

33 installment of the community housing surcharge has been paid. The second and third  
34 installments must be paid annually on the anniversary of the first payment, or the next business  
35 day if that date falls on a weekend or federal, state, or local holiday. The building commissioner  
36 of the Town of Lexington shall levy fines for development that is not in compliance with the  
37 provisions of this act, and shall consider each day of noncompliance as a separate offense.

38 SECTION 6: All surcharges and fines received pursuant to this act shall be deposited into  
39 the Town of Lexington Affordable Housing Capital Stabilization Fund or an affordable housing  
40 trust established by the Town pursuant to section 55C of chapter 44 of the General Laws or any  
41 special act.

42 SECTION 7: For the purposes of this act, “community housing” shall mean as defined  
43 under section 2 of chapter 44B of the General Laws.

44 SECTION 8: This act shall take effect upon its passage.