

**CITY OF BALTIMORE
COUNCIL BILL 06-0323
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Department of Public Works)
Introduced and read first time: January 23, 2006
Assigned to: Highways and Franchises Subcommittee

REFERRED TO THE FOLLOWING AGENCIES: Planning Commission, Department of Housing and Community Development, Department of Public Works, Department of Transportation, Fire Department, Board of Estimates

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Franchise – Private One-Story Building Addition and Crawl**
3 **Space Projecting into and below a Portion of the East Fairmount Avenue Right-of-Way**

4 FOR the purpose of granting a franchise to Patterson Park Community Development Corporation
5 to construct, use, and maintain a one-story building addition and crawl space into and below
6 a portion of the East Fairmount Avenue right-of-way, attached to and extending from the
7 southern exterior wall of 101 North Kenwood Avenue, subject to certain terms, conditions,
8 and reservations; and providing for a special effective date.

9 BY authority of
10 Article VIII - Franchises
11 Baltimore City Charter
12 (1996 Edition)

13 **Recitals**

14 Patterson Park Community Development Corporation, a not-for-profit organization and
15 owner of 101 North Kenwood Avenue, is converting this former corner store into a Montessori
16 school on the first floor of the building. The second floor of the building will be retained as an
17 income-producing apartment to help defray the costs of operating the school. The Montessori
18 school serves children between the ages of 3 and 6 years.

19 The 101 North Kenwood Avenue building is located at the northeast corner of North
20 Kenwood Avenue and East Fairmount Avenue. The existing structure will be renovated to
21 accommodate the school on the first floor, and a single story addition with a below grade crawl
22 space will be built and attached to and projecting from the southern wall of the structure. The
23 addition is necessary to provide sufficient floor space and an accessible entrance to the school
24 facility.

25 The single story addition will project into the sidewalk area of the East Fairmount Avenue
26 right-of-way approximately 6.5 feet from the southern property line. Approximately 7.5 feet of

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

1 the 14-foot paved sidewalk area will remain accessible to public use. The addition will begin
2 approximately 10 feet from the western property line and end at the eastern property line. The
3 entire approximately 422.5 square foot structure will be in the East Fairmount Avenue right-of-
4 way. The total height of the encroachment shall be no higher than 14 feet above grade at any
5 point and no lower than 3.5 feet below grade.

6 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That a
7 franchise or right is granted to Patterson Park Community Development Corporation, its tenants,
8 successors, and assigns (collectively, the “Grantee”) to construct, use, and maintain, at Grantee’s
9 own cost and expense, and subject to the terms and conditions of this Ordinance, a single story
10 building addition, and crawl space, each level enclosing an approximately 422.5 square foot
11 portion of the East Fairmount Avenue right-of-way, more particularly described as follows:

12 All that piece or parcel of land lying, situate and being in Ward 6, Section 19,
13 Block 1712, of Baltimore City, Maryland and beginning at a point located 10.00
14 feet easterly from the northeast corner of the intersection of North Kenwood
15 Avenue and East Fairmount Avenue; thence running with and binding on the
16 northerly side of said East Fairmount Avenue, as now surveyed, with bearings of
17 this description being based on the Baltimore City Grid datum (1) North 87
18 degrees 04 minutes 47 seconds East 65.00 feet; thence leaving said northerly side
19 of said East Fairmount Avenue and running through the right-of-way of said East
20 Fairmount Avenue the following 3 courses; (2) South 02 degrees 55 minutes 13
21 seconds East 6.50 feet; thence (3) South 87 degrees 04 minutes 47 seconds West
22 65.00 feet; thence (4) North 02 degrees 55 minutes 13 seconds West 6.50 feet to
23 the point of beginning.

24 A franchise or right is granted to the Grantee to construct, use and maintain, at Grantee’s own
25 cost and expense, and subject to the terms and conditions of this Ordinance, a crawl space below
26 the single story addition at a depth no lower than 3.5 feet below grade, at any point.

27 **SECTION 2. AND BE IT FURTHER ORDAINED,** That to become effective, the franchise or right
28 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within
29 6 months after the effective date of this Ordinance.

30 **SECTION 3. AND BE IT FURTHER ORDAINED,** That as compensation for the Franchise, the
31 Grantee shall pay to the Mayor and City Council of Baltimore a franchise charge of \$ _____ a
32 year, subject to increase or decrease as provided in Section 5 of this Ordinance. The franchise
33 charge must be paid annually, at least 30 days before the initial and each renewal term of the
34 Franchise.

35 **SECTION 4. AND BE IT FURTHER ORDAINED,** That:

36 (a) The initial term of the Franchise is 1 year, commencing on the effective date of this
37 Ordinance. Unless sooner terminated as provided in this Ordinance, the Franchise will
38 automatically renew, without any action by either the Mayor and City Council of Baltimore or
39 the Grantee, for 24 consecutive 1-year renewal terms. Except as otherwise provided in this
40 Ordinance, each renewal term will be on the same terms and conditions as the initial term. The
41 maximum duration for which the Franchise may operate, including the initial and all renewal
42 terms, is 25 years.

1 (b) Either the Mayor and City Council of Baltimore, acting by and through the Director of
2 Public Works, or the Grantee may cancel the Franchise as at the end of the initial or any renewal
3 term by giving written notice of cancellation to the other at least 90 days before the end of that
4 term.

5 **SECTION 5. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore,
6 acting by and through the Board of Estimates, may increase or decrease the annual franchise
7 charge by giving written notice of the increase or decrease to the Grantee at least 150 days
8 before the end of the original or renewal term immediately preceding the renewal term to which
9 the increase or decrease will first apply. The new franchise charge will apply to all subsequent
10 annual renewal terms, unless again increased or decreased in accordance with this section.

11 **SECTION 6. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore
12 expressly reserves the right at all times to exercise, in the interest of the public, full municipal
13 superintendence, regulation, and control over and in respect to all matters connected with the
14 Franchise and not inconsistent with the terms of this Ordinance.

15 **SECTION 7. AND BE IT FURTHER ORDAINED,** That the Grantee, at its own cost and expense,
16 shall maintain in good condition and in compliance with all applicable laws and regulations of
17 Baltimore City, all structures for which the Franchise is granted. The maintenance of these
18 structures shall be at all times subject to the regulation and control of the Commissioner of
19 Housing and Community Development and the Director of Public Works. If any structure for
20 which the Franchise is granted must be readjusted, relocated, protected, or supported to
21 accommodate a public improvement, the Grantee shall pay all costs and expenses in connection
22 with the readjustment, relocation, protection, or support.

23 **SECTION 8. AND BE IT FURTHER ORDAINED,** That at the option of the Mayor and City
24 Council of Baltimore, acting by and through the Director of Public Works, the Grantee's failure
25 to comply with any term or condition of this Ordinance constitutes a forfeiture of the Franchise.
26 Immediately on written notice to the Grantee of the exercise of this option, the Franchise
27 terminates. Once so terminated, only an ordinance of the Mayor and City Council of Baltimore
28 may waive the forfeiture or otherwise reinstate the Franchise.

29 **SECTION 9. AND BE IT FURTHER ORDAINED,** That at any time and without prior notice, the
30 Mayor of Baltimore City may revoke the Franchise if, in the Mayor's judgment, the public
31 interest, welfare, safety, or convenience so requires. Immediately on written notice to the
32 Grantee of the exercise of this right, the Franchise terminates.

33 **SECTION 10. AND BE IT FURTHER ORDAINED,** That on cancellation, expiration, forfeiture,
34 revocation, or other termination of the Franchise for any reason, the Grantee shall remove all
35 structures for which the Franchise is granted. The removal of these structures shall be
36 (i) undertaken at the cost and expense of the Grantee, without any compensation from the Mayor
37 and City Council of Baltimore, (ii) made in a manner satisfactory to the Commissioner of
38 Housing and Community Development and the Director of Public Works, and (iii) completed
39 within the time specified in writing by the Director of Public Works.

40 **SECTION 11. AND BE IT FURTHER ORDAINED,** That the Grantee is liable for and shall
41 indemnify and save harmless the Mayor and City Council of Baltimore against all suits, losses,
42 costs, claims, damages, or expenses to which the Mayor and City Council of Baltimore is at any
43 time subjected on account of, or in any way resulting from, (i) the presence, construction, use,
44 operation, maintenance, alteration, repair, location, relocation, or removal of any of the

1 structures for which the Franchise is granted, or (ii) any failure of the Grantee, its officers,
2 employees, or agents, to perform promptly and properly any duty or obligation imposed on the
3 Grantee by this Ordinance.

4 **SECTION 12. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it
5 is enacted.