

NORTH CAROLINA GENERAL ASSEMBLY  
1973 SESSION

CHAPTER 129  
HOUSE BILL 123

AN ACT TO INCORPORATE THE TOWN OF PATTERSON SPRINGS, IN  
CLEVELAND COUNTY, SUBJECT TO AN ELECTION.

The General Assembly of North Carolina enacts:

**Section 1.** The Board of Elections of Cleveland County shall conduct a special election on Tuesday, May 15, 1973, for the purpose of submitting to the qualified voters of the area hereinafter described as the proposed corporate limits of the Town of Patterson Springs the question whether or not such area shall be incorporated as a municipal corporation known as the Town of Patterson Springs, and to elect the members of the governing body if said area is incorporated. The election shall be nonpartisan. On such day, the polls shall be open from 6:30 a.m. until 6:30 p.m. The said Board of Elections for Cleveland County in conducting the election required to be held herein shall follow the procedure as outlined in this act and the General Statutes of North Carolina relating to municipal elections where not in conflict with this act.

**Sec. 2.** The Cleveland County Board of Elections shall, not later than Monday, April 2, 1973, appoint a registrar and two judges of election, and designate a polling place for the special election.

**Sec. 3.** Not later than Friday, April 6, 1973, the Cleveland County Board of Elections shall cause to be posted at Randolph Biggers Store, at Crowders Supermarket, and at such other public places as the Board may choose, a notice stating the time, the polling place, and the purpose of the special election; the names of the registrar and judges of election; and that candidates for election of the Town Board of Commissioners must file with the Board notice of candidacy not earlier than Friday, March 23, 1973, and not later than 5:00 p.m. on Friday, April 20, 1973. The Board of Elections may, in its discretion, also cause such notice to be published one or more times in a newspaper having general circulation in the Patterson Springs community.

**Sec. 4.** Any qualified voter who would offer himself as a candidate for Commissioner in such election shall file with the Chairman or Clerk of the Board of Elections of Cleveland County a written statement giving notice of his candidacy. Such notice shall be filed not earlier than Friday, March 23, 1973, and not later than 5:00 p.m. on Friday, April 20, 1973, and shall be substantially in the following form:

I, \_\_\_\_\_, do hereby give notice that I am a candidate for election to the office of Commissioner, Town of Patterson Springs, to be voted on at the election to be held on Tuesday, May 15, 1973, and I hereby request that my name be placed on the official ballot for such office. I certify that I am a resident and qualified voter of the Town of Patterson Springs, residing at \_\_\_\_\_,

(Signature)

(Date)

Witness: \_\_\_\_\_."

**Sec. 5.** In the special election, those voters who favor the incorporation of the Town of Patterson Springs as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of Town of Patterson Springs", and those voters who are opposed to the incorporation of the Town of Patterson Springs as provided in this act shall vote a ballot upon which shall be printed the words: "AGAINST Incorporation of Town of Patterson Springs".

**Sec. 6.** Also in the special election, each qualified registered voter shall be entitled to vote for five (5) candidates for Commissioner upon a ballot on which shall be listed, in alphabetical order, the names of all persons who filed notice of candidacy with the Board of Elections during the period hereinabove established.

**Sec. 7.** If a majority of the votes cast in the special election shall be cast "AGAINST Incorporation of Town of Patterson Springs", then Sections 10 through 13 of this act shall have no force or effect.

**Sec. 8.** If a majority of the votes cast in the special election shall be cast "FOR Incorporation of Town of Patterson Springs", then Sections 10 through 13 of this act shall be in full force and effect from and after May 15, 1973.

**Sec. 9.** In the special election, the three (3) candidates for Commissioner who receive the largest numbers of votes cast for Commissioner shall be declared elected for terms of four (4) years beginning immediately but computed from November 6, 1973, or until their successors are elected and qualified, and the two (2) candidates for commissioner who receive the next largest numbers of votes cast for Commissioner shall be declared elected for terms of two (2) years beginning immediately but computed from November 6, 1973, or until their successors are elected and qualified. In case of a tie between opposing candidates, the Board of Elections shall determine the result by lot. It is the intent of this act that the Commissioners elected under this act shall serve until the Regular Municipal Elections to be held in 1975 or 1977 as appropriate and that the Town of Patterson Springs shall have no further municipal elections for municipal officials during 1973.

**Sec. 10.** The Chairman of the Board of Elections shall notify the persons elected as Commissioners and shall designate some qualified officer to administer to them the oath of office, which shall be done as soon as practicable following their election.

**Sec. 11.** The following provisions of law shall constitute the Charter of the Town of Patterson Springs, in Cleveland County:

"THE CHARTER OF THE TOWN OF PATTERSON SPRINGS

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. Incorporation and General Powers. The inhabitants of the area described in Section 2.1 of this charter shall be and constitute a body politic and corporate under the name of the 'Town of Patterson Springs', and shall be vested with all property which may be acquired by the Town, and all rights herein delegated to it; shall have perpetual succession; may have a common seal and alter and renew the same at

pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. Exercise of Powers. All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this charter, or, if this charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. Enumerated Powers Not Exclusive. The enumeration of particular powers by this charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Patterson Springs shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this charter specifically to enumerate.

## "ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. Corporate Boundaries. (a) For the purposes of conducting the special election on the question of incorporation and for the election of Town Commissioners and for all other purposes, the corporate boundaries of the Town of Patterson Springs shall be as follows until changed in accordance with law: All of the area lying and being within a circle with a radius of 1/2 mile, with the center of said circle being at a point in the center of North Carolina Highway #226 where it intersects with the center of North Carolina Highway #180.

(b) As soon as practicable following their election, the Board of Commissioners of the Town of Patterson Springs shall cause to be made an accurate survey of the corporate boundaries and shall cause to be made an accurate map based upon such survey. After such survey and map is completed, and after the Board of Commissioners of the Town of Patterson Springs finds and declares upon its minutes that the boundaries shown on such map do not vary from the description in subsection (a) of this section, they shall cause accurate copies of such map to be filed in the office of the register of deeds of Cleveland County and in the office of the Secretary of State of North Carolina. From and after the time a copy of such map is filed in the office of the register of deeds of Cleveland County, the corporate boundaries as shown thereon shall be the corporate boundaries of the Town of Patterson Springs until changed in accordance with law. An accurate copy of such map shall also be maintained in the Town offices.

## "ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

"Sec. 3.1. Mayor and Mayor Pro Tempore. The Board of Commissioners at its first meeting shall choose one of its number to be the Mayor of the Town of Patterson Springs. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. When there is an equal division upon any question, or in the appointment of officers, by the Board, the Mayor shall determine

the matter by his vote, and he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall also choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor and the Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the Board of Commissioners.

"Sec. 3.2. Composition of Board of Commissioners. The Board of Commissioners shall consist of five (5) members to be elected by and from the qualified voters of the Town voting at large in the manner provided by Article IV.

"Sec. 3.3. Terms; Qualifications; Vacancies. (a) Except for the initial terms of office hereinbefore specified, the Mayor and the members of the Board of Commissioners shall serve for terms of four (4) years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as a member of the Board of Commissioners, or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) If any elected Commissioner shall refuse to qualify, or if there shall be any vacancy in the office of Commissioner after election and qualification, the remaining members of the Board shall by majority vote appoint some qualified person to serve for the unexpired term. Any Commissioner so appointed shall have the authority and powers as if regularly elected. A vacancy in the office of Mayor shall be filled by the Board of Commissioners.

"Sec. 3.4. Compensation of Mayor and Commissioners. The Mayor and the other members of the Board of Commissioners shall receive for their services such salary as the Board of Commissioners shall determine. After the initial salaries have been established, such salaries may be increased or decreased as the Board of Commissioners sees fit, but no increase or decrease shall be made to take effect as to any Commissioner during the respective term of office which he is serving at the time the increase or decrease is voted.

"Sec. 3.5. Organization of Board; Oaths of Office. The Board of Commissioners shall meet and organize for the transaction of business at a time established by ordinance, following each biennial election. Before entering upon their offices, each Commissioner shall take, subscribe, and have entered upon the minutes of the Board the oath of office required by the Constitution of North Carolina.

"Sec. 3.6. Meetings of Board. The Board of Commissioners shall fix suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Commissioners, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

"Sec. 3.7. Quorum; Votes. (a) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a less number

may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members of the Board of Commissioners shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of the members present and voting.

"Sec. 3.8. Ordinances and Resolutions. The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: 'Be it ordained by the Board of Commissioners of the Town of Patterson Springs.' All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein, or unless some provision of the General Statutes provides otherwise.

#### "ARTICLE IV. ELECTION PROCEDURE

"Sec. 4.1. Regular Municipal Elections. Following the initial election hereinbefore provided for, regular municipal elections shall be held on the Tuesday after the first Monday in November of each odd-numbered year, beginning in 1975. In the regular 1975 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large two (2) Commissioners to serve for terms of four (4) years, or until their successors are elected and qualify. In the regular 1977 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large three (3) Commissioners to serve for terms of four (4) years, or until their successors are elected and qualify.

"Sec. 4.2. Voting. In the regular 1975 election and quadrennially thereafter, each voter shall be entitled to vote for two (2) candidates for Commissioner, and the two candidates for Commissioner who receive the largest number of votes cast for Commissioner shall be declared elected. In the regular 1977 election and quadrennially thereafter, each voter shall be entitled to vote for three (3) candidates for Commissioner, and the three (3) candidates who receive the largest numbers of votes cast for Commissioner shall be declared elected. In case of a tie between opposing candidates, the election officials shall determine the result by lot.

#### "ARTICLE V. TOWN ATTORNEY

"Sec. 5.1. Appointment; Qualifications; Term; Compensation. The Board of Commissioners may appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board of Commissioners and shall receive such compensation as the Board shall determine.

"Sec. 5.2. Duties of Town Attorney. It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all

meetings of the Board of Commissioners when requested by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

#### "ARTICLE VI. FINANCE

"Sec. 6.1. Taxation. The Territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town for the fiscal year 1973-1974 and subsequent years. The Town may obtain from Cleveland County, and the County shall provide upon request, a list of the taxable property within the corporate limits of the Town of Patterson Springs, of the owners of such property, and of the valuation for tax purposes of such property.

#### "ARTICLE VII. CLAIMS AGAINST THE TOWN

"Sec. 7.1. Title to Properties Used for Certain Purposes. In the absence of any contracts with the Town in relation to the lands used or occupied by it for the purposes of streets, sidewalks, alleys, or other public works of the Town signed by the owner thereof or his agent, it shall be conclusively presumed that said land has been granted to the Town by the owner or owners, and the Town shall have good right and title thereto and shall have, hold, and enjoy the same. Unless the owner or owners of said land, or those claiming under them, shall make claim or demand in writing addressed to the Board of Commissioners within two (2) years following the date when such land was taken, he or they shall be forever barred from recovering such land or having any compensation therefor; provided, nothing herein shall affect the rights of persons under disabilities until two (2) years following removal thereof.

"Sec. 7.2. Tort Claims. All claims or demands against the Town arising in tort shall be presented to the Board of Commissioners in writing, signed by the claimant or his attorney or agent, within ninety (90) days after such claim or demand is due or the cause of action accrues. No suit or action shall be brought on such a claim or demand within thirty (30) days or after the expiration of twelve (12) months from the time such claim or demand is presented. Unless the said claim or demand is so presented within ninety (90) days, and unless suit is brought within twelve (12) months thereafter, any action thereon shall be barred.

#### "ARTICLE VIII. GENERAL PROVISIONS

"Sec. 8.1. Health and Well-Being of Citizens. The Board of Commissioners of the Town shall have the power and the right to adopt such rules and regulations for the effective policing of the Town as they may deem necessary, and to take all necessary steps for the proper enforcement of the same; and the Board of Commissioners shall have the right and the power to adopt such rules and regulations for the preservation and protection of the health and well-being of the Town and its citizens as they may deem necessary, and to take all necessary steps for the proper enforcement of the same.

"Sec. 8.2. North Carolina General Statutes. The Town shall have the benefit of and be subject to all the provisions of Chapter 160A of the General Statutes of North Carolina and all laws amendatory thereof, and shall have the benefit of and be subject to all the provisions of all general laws regulating towns and cities, except insofar as said Chapter 160A and the aforesaid laws are modified and changed by the provisions of this Town Charter."

**Sec. 12.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

**Sec. 13.** This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1973.