

House Bill 716 (AS PASSED HOUSE AND SENATE)

By: Representatives Lumsden of the 12<sup>th</sup>, Dempsey of the 13<sup>th</sup>, and Barton of the 5<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend an Act to reincorporate the City of Cave Spring, approved April 28, 1969  
2 (Ga. L. 1969, p. 3872), as amended, so as to revise and modernize the charter of such city;  
3 to abolish the office of mayor; to create the office of city manager; to provide for powers and  
4 duties of the city council and the city manager; to provide for related matters; to provide for  
5 the continuation in office of current members; to repeal conflicting laws; and for other  
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 An Act to reincorporate the City of Cave Spring, approved April 28, 1969 (Ga. L. 1969,  
10 p. 3872), as amended, is amended by revising Articles I through VII as follows:

11 "ARTICLE I.  
12 CHARTER, CITY LIMITS AND CORPORATE POWERS

13 SECTION 1.1.

14 Body politic and corporate continued.

15 This Act shall constitute the whole charter of the City of Cave Spring, Georgia, replacing  
16 the earlier provisions outlined in Georgia Laws of 1969, p. 3872. The City of Cave Spring,  
17 Georgia, in the County of Floyd, and the inhabitants thereof, shall continue to be a body  
18 politic and corporate under the name and style of the City of Cave Spring, Georgia, and by  
19 that name shall have perpetual succession, may contract and contract with, may sue and be  
20 sued, plead and be impleaded, in all the courts of law and equity, and in all actions  
21 whatsoever, and may have and use a common seal and change it at pleasure.

22 SECTION 1.2.

23 City boundaries.

24 The corporate boundaries of this city shall be the boundaries existing on the effective date  
25 of the adoption of this section, with such alterations as may be made from time to time in  
26 the manner provided by law. The official boundaries of this city shall be those shown in  
27 the official maps and records maintained by the Geographic Information Systems Manager  
28 of the Rome/Floyd County Planning Department.

29 SECTION 1.3.  
30 Corporate powers.

31 The corporate powers of the city, to be exercised by the city council, may include the  
32 following:

33 (a) To levy and to provide for the assessment, valuation, re-evaluation, and collection of  
34 taxes on all property subject to taxation.

35 (b) To levy and to provide for the collection of license fees and taxes on privileges,  
36 occupations, trades and professions.

37 (c) To appropriate and borrow money to provide for payment of the debts of the city, and  
38 to authorize the expenditure of money for any municipal purpose, or for matters of national  
39 or state interest, and to issue bonds for the purpose of raising revenue to carry out any  
40 project, program or venture authorized under this charter or the general laws of the state.  
41 Such bonding authority shall be exercised in accordance with the laws governing bond  
42 issues by municipalities in effect at the time said issue is undertaken.

43 (d) To acquire, dispose of, and hold in trust or otherwise, any real, personal or mixed  
44 property, inside or outside the city.

45 (e) To condemn property, inside or outside the city, for present or future use, and for any  
46 corporate purpose deemed necessary by the city council under any applicable public acts.

47 (f) To acquire, construct, operate, distribute, sell and dispose of public utilities, including  
48 but not limited to a waterworks system, sewerage system, a natural gas system, and a  
49 community antenna television system, both inside and outside the corporate limits, subject  
50 to the provisions of applicable general law. For water and gas furnished, and for all  
51 sewerage and sanitary services rendered, said city may prescribe the charges, rates, fares,  
52 fees, regulations and standards and conditions of service to be provided and shall have a  
53 lien against any property of the persons served; said lien to be enforceable in the same  
54 manner and with the same remedies as a lien for city property taxes.

55 (g) To grant franchises or make contracts for public utilities and public services, including  
56 but not limited to those stated above, in accordance with Georgia law. The council may  
57 prescribe the rates, fares, regulations, and standards and conditions of service applicable  
58 to the service to be provided by the franchise grantee or contractor, insofar as not in  
59 conflict with such regulations by the Public Service Commission.

60 (h) To provide for the acquisition, construction, building, operation and maintenance of  
61 public ways, parks, public grounds, cemeteries, markets and market houses, public  
62 buildings, libraries, sewers, drains, sewerage treatment, airports, hospitals, and charitable,  
63 educational, recreational, conservation, sport, curative, corrective detentional, penal and  
64 medical institutions, agencies and facilities; and any other public improvements, inside or  
65 outside the city; and to regulate the use thereof, and for such purposes, property may be  
66 acquired by condemnation under any applicable public acts.

67 (i) To prescribe standards of health and sanitation and to provide for the enforcement of  
68 such standards.

69 (j) To provide for the collection and disposal of garbage, rubbish and refuse. Charges or  
70 fees may be imposed to cover the costs of such services which, if unpaid, shall constitute  
71 a debt which shall be subject to a lien against any property of persons served, which lien  
72 shall be enforceable in the same manner, and under the same remedies, as a lien for city  
73 property taxes.

74 (k) To define, regulate and prohibit any act, practice, conduct or use of property which is  
75 detrimental, or likely to be detrimental, to the health, morals, safety, security, peace,  
76 convenience, or general welfare of inhabitants of the city.

77 (l) To define a nuisance in the city and to provide for its abatement. The municipal judge  
78 of the city shall have jurisdiction of all nuisance abatement proceedings in the city. The  
79 city may provide by ordinance for any building, structure, or condition maintained in  
80 violation of any valid law of this state or any valid ordinance of the city, to be adjudged a

- 81 nuisance and for its abatement at the owner's expense upon his or her failure or refusal to  
82 abate the same within ten days after written notice from the city to do so.
- 83 (m) To establish minimum standards for, and to regulate building construction and repair,  
84 electrical wiring and equipment, gas installation and equipment, plumbing, and housing for  
85 the health, sanitation, cleanliness, welfare, and safety of inhabitants of the city and to  
86 provide for the enforcement of such standards; provided, however, no ordinance, regulation  
87 or standards promulgated under this section shall be construed to apply to communications  
88 equipment installations made by or for a utility and required by it in the rendition of its  
89 duly authorized services to the public.
- 90 (n) To provide that persons given jail sentences in the municipal court shall work out such  
91 sentences in any public works or on the public streets of the city as provided by ordinance;  
92 or the council may provide for the commitment of city prisoners to any county work camp,  
93 or jail, by agreement with the appropriate county officers.
- 94 (o) To regulate and license, or prohibit, the keeping or running at large of animals and fowl  
95 and to provide for the impoundment of same, in violations of any ordinance or lawful  
96 orders; to provide for their disposition, by sale, gift, or humane destruction, when not  
97 redeemed as provided by ordinance; and to provide punishment for violation of ordinances  
98 enacted hereunder.
- 99 (p) To regulate and license vehicles operated for hire in the city; to limit the number of  
100 such vehicles; to require the operators thereof to be licensed; to require public liability  
101 insurance on such vehicles in amounts prescribed by ordinance; and to regulate and rent  
102 parking spaces in public ways for the use of such vehicles.
- 103 (q) To levy and provide for the collection of special assessments to cover the costs for any  
104 public improvements.
- 105 (r) To provide that upon the conviction of the violation of any ordinance, rule, regulation  
106 or order, the offender may be punished within limitations prescribed by the council in such

107 ordinance, rule, regulation, or order but not exceeding the limitations prescribed by this  
108 charter.

109 (s) To exercise and enjoy all other powers, functions, rights, privileges and immunities  
110 necessary or desirable to promote or protect the safety, health, peace, security, good order,  
111 comfort, convenience, morals, and general welfare of the city and its inhabitants; and to  
112 exercise all implied powers necessary to carry into execution all powers granted in this  
113 charter as fully and completely as if such powers were fully enumerated herein; and to  
114 exercise all powers now or in the future authorized to be exercised by other municipal  
115 governments under the Constitution or general laws of the State of Georgia. No  
116 enumeration of particular powers in this Act shall be held to be exclusive of others, nor  
117 restrictive of general words and phrases granting powers; but shall be held to be in addition  
118 to such powers unless expressly prohibited to cities under the Constitution or applicable  
119 public acts of the state.

120 (t) To levy taxes and to make appropriations for the purpose of advertising said city and  
121 its advantages and resources so as to bring new capital and commercial and manufacturing  
122 and other enterprises into the city, and also to levy taxes and to make payment from the  
123 general revenues and funds of the city for the support of public hospitals, and libraries.

124 (u) To regulate and control public streets, public alleys and ways; and in the discretion of  
125 the council by ordinance to alter, open or close public streets and public alleys and ways  
126 without notification.

127 SECTION 1.4.

128 Ordinances.

129 All ordinances, bylaws, rules and regulations, now in force in said city, not inconsistent  
130 with this Act, are hereby declared valid and of force until amended or repealed by the  
131 council of said city.



153 Monday in November, 2023, and on said date every fourth year thereafter, two  
154 councilmembers shall be elected to posts on the city council, to be numbered posts one and  
155 two, respectively. Each person offering himself or herself as a candidate shall specify the  
156 post for which he or she is a candidate. The person receiving the highest number of votes  
157 cast for election to each post shall be declared elected. On the Tuesday next following the  
158 first Monday in November, 2025, and on said date every fourth year thereafter, three  
159 councilmembers shall be elected to posts on the city council, to be numbered posts three,  
160 four, and five, respectively. Each person offering himself or herself as a candidate shall  
161 specify the post for which he or she is a candidate. The person receiving the highest  
162 number of votes cast for election to each post shall be declared elected. The election of  
163 councilmembers shall be conducted in the manner hereinafter provided. Whenever a tie  
164 vote causes an inability to determine who is elected to an office, then the election to such  
165 office shall be decided between the tying candidates by a casting of lots conducted by and  
166 in the manner prescribed by the municipal superintendent of the election.

167 SECTION 2.4.

168 Terms of office.

169 The terms of office for councilmembers shall begin on January 1 following the election,  
170 and except as otherwise provided shall continue for four years and until their successors  
171 are elected and qualified.

172 SECTION 2.5.

173 City council.

174 The governing body of said city shall be composed of five councilmembers, in which is  
175 vested all corporate, legislative, and other powers of the city, except as otherwise provided



176 in this Act. At the council's first meeting of each calendar year, or as soon thereafter as  
177 practical, the members of the council shall elect one of their members as chair, and one as  
178 vice chair. The council shall hold regular public meetings at a stated time and place as  
179 provided by ordinance. The council shall meet in special sessions on call of the chair or  
180 the vice chair and two councilmembers, and notice of which has been served on the other  
181 members personally or left at their residence at least 12 hours in advance of the meeting.  
182 But such notice of a special meeting shall not be required if all councilmembers are present  
183 when the special meeting is called. Such notice of a special meeting shall be considered  
184 waived if all councilmembers are present when the special meeting is convened. Only the  
185 business stated in the written call may be transacted at a special meeting, except by  
186 unanimous consent of all members of the council. The council shall exercise its powers  
187 in public meetings. A majority of the council shall constitute a quorum. The council may,  
188 by ordinance, adopt rules and bylaws to govern the conduct of its business, including  
189 procedures and penalties for compelling the attendance of absent members. The council  
190 may provide by ordinance for punishment for contemptuous behavior conducted in the  
191 presence of the council.

192 SECTION 2.6.

193 Chair as presiding officer.

194 The chair shall preside at meetings of the council; shall have a vote only in the case of a  
195 tie vote by councilmembers; shall be the ceremonial head of the city; shall sign ordinances  
196 and resolutions on their final passage; may obtain short-term loans in the name of the city  
197 when authorized by the council to do so; and shall perform such other duties imposed by  
198 this charter and duly adopted ordinances.

199 SECTION 2.7.

200 Vice chair.

201 The council at the first regular meeting, and after the newly elected councilmembers have  
202 taken office following each regular election, shall elect from its membership a vice chair  
203 for a term of one year. Upon the council's failure to elect a vice chair at its first meeting  
204 in February of each year, the incumbent councilmember who received the highest number  
205 of votes, when last elected, shall be declared vice chair. The vice chair shall perform the  
206 duties of the chair during the chair's absence from the city or disability.

207 SECTION 2.8.

208 Vacancy in office of chair or councilmembers.

209 A vacancy shall exist if a councilmember resigns, dies, moves his or her residence from the  
210 city, or is absent from four consecutive regular meetings of the governing authority, except  
211 if granted a leave of absence by the council, or if a councilmember is adjudged incompetent  
212 or is convicted of malfeasance in office, or of a felony, or any violation of election laws.  
213 If a vacancy occurs in the office of any councilmember, then a special election shall be held  
214 to fill the vacancy as prescribed in the Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia  
215 Election Code,' as it now exists or may hereafter be amended.

216 SECTION 2.9.

217 Compensation and expenses.

218 The council may determine the salary of the councilmembers by ordinances, provided that  
219 salary changes enacted shall not become effective until the expiration of a period of six  
220 months after such change. Each councilmember, when authorized by the council and upon

221 presentation of itemized vouchers, shall receive his or her actual and necessary expenses  
222 incurred in the performance of his or her duties of office.

223 SECTION 2.10.

224 City manager; appointment.

225 (a) The city manager shall be the full-time chief administrative officer of the municipal  
226 government. The city manager shall be recommended by the chair of the council, and shall  
227 be confirmed by a majority vote of the entire council on or before the first voting meeting  
228 in June of the year in which the term expires with the appointment to be effective the first  
229 day of July of said year. The manager shall be appointed for a term of four years,  
230 beginning on the first day of July, 2023. The city manager may succeed himself or herself,  
231 and he or she may be removed at any time by a majority vote of the entire council. If the  
232 office of the city manager becomes vacant, whether due to resignation, removal, death,  
233 disability, or otherwise, the chair may appoint an interim city manager who shall serve in  
234 that role for the remainder of the then-current term or until a new city manager is  
235 appointed, whichever occurs first. The council may remove an interim city manager by  
236 majority vote of the entire council.

237 (b) No person holding an elective office in the city shall be eligible for appointment as the  
238 city manager until at least one year after leaving elective office. The city manager is  
239 prohibited from engaging in political activity, and the city manager shall not be eligible to  
240 qualify for an elective office in the city for one year after leaving office. The city manager  
241 need not be a resident of Floyd County or Polk County at the time of his or her  
242 appointment, but the city manager must establish residence within a ten-mile radius of the  
243 Cave Spring City Hall, within six months of his or her appointment, and the city manager  
244 must continue to meet this residency requirement throughout his or her term in office.

- 245 (c) The city manager's compensation and benefits shall be set by the city council and set  
246 forth in writing.
- 247 (d) The council shall evaluate the performance of the city manager annually, no later than  
248 one month after the anniversary of the date of his or her initial appointment.

249 SECTION 2.11.

250 City manager; powers and duties.

- 251 (a) The city manager shall be responsible for:
- 252 (1) Appointing, removing, and supervising the heads of all departments, offices, and  
253 agencies of the municipal government, unless otherwise provided by this charter or  
254 general law.
- 255 (2) Submitting an annual proposed budget with the assistance of all department heads for  
256 approval by the council, to be enacted by council no later than July 1 of each year.
- 257 (3) Seeing to it that all lawful ordinances of the city are enforced.
- 258 (4) Keeping the council advised as to the financial condition and needs of the municipal  
259 government.
- 260 (5) Conducting studies and investigations and making reports thereon to the council  
261 concerning the operation of the municipal government.
- 262 (6) Overseeing the construction, maintenance, improvements, and upkeep of all streets,  
263 roadways, lanes, alleys, and sidewalks in the city, the construction, maintenance,  
264 improvements, and upkeep of all municipal buildings, municipal parks, and municipal  
265 grounds in the city, the laying and construction of all sewers, drains, and curbs of the city,  
266 the waterworks of the city, and all that is connected therewith.
- 267 (7) Prescribing, requiring, publishing, and implementing standards of administrative,  
268 management, and operating practices and procedures to be followed and adhered to by  
269 all offices, departments, boards, commissions, authorities, and other agencies of the

270 municipal government which are subject to the city manager's supervision and  
271 jurisdiction.

272 (8) Enforcing the lawful personnel policies of the city.

273 (9) Executing all contracts, agreements, deeds, or other similar instruments properly  
274 approved by the council or which are otherwise in accordance with this charter or the  
275 ordinances of the city.

276 (10) Overseeing all requests for bids, requests for proposals, and purchasing activities  
277 of the municipal government, and as necessary, appointing a purchasing agent for the  
278 municipal government.

279 (11) Attending all meetings of the council with the right to take part in the discussion,  
280 but having no vote.

281 (12) Performing any and all other duties as prescribed by this charter, ordinance or  
282 resolution of the council, or the laws of the State of Georgia.

283 (b) Except when conducting inquiries and investigations, the council shall deal with  
284 personnel of the municipal government who are subject to the appointment, removal, and  
285 supervision of the city manager solely through the city manager, and no member of the  
286 council shall give orders or directions to any such employee, either publicly or privately,  
287 directly or indirectly.

288 SECTION 2.12.

289 City clerk.

290 (a) The city manager shall appoint a city clerk who shall be ex officio treasurer. The city  
291 clerk shall be responsible for keeping and preserving the city seal and all records of the  
292 council; attending meetings of the council and keeping a journal of its proceedings at such  
293 meetings, including the names of members present and absent, the vote of each member  
294 on each question, each motion considered, and the text of each resolution or ordinance

295 considered; preparing and certifying copies of official records in his or her office, for which  
296 fees may be prescribed by ordinance; and performing such other duties as may be required  
297 by the city manager.

298 (b) The council shall require the clerk, before entering upon discharge of the clerk's duties,  
299 to give good and sufficient bond in amount to be decided by the council, but not less than  
300 \$2,500.00, said bond payable to the City of Cave Spring, for the faithful performance of  
301 the clerk's duties and to secure against corruption, malfeasance, misappropriations or  
302 unlawful expenditures. Said surety bond shall be obtained from a surety company licensed  
303 to do business in the State of Georgia and approved by the council, and the premium  
304 thereon shall be paid by the city.

305 SECTION 2.13.

306 City legislation.

307 Any action of the council, having a regulatory or penal effect or required to be done by  
308 ordinance under this Act, shall be done only by ordinance. Each resolution and ordinance  
309 shall be in written form before being introduced. The affirmative vote of at least three  
310 members of the council shall be required to pass any resolution or ordinance. After  
311 adoption of ordinances, the city clerk shall number ordinances consecutively, in the order  
312 of their final adoption, and shall copy them into a permanent record book used solely for  
313 this purpose; and the city clerk shall do likewise for resolutions, using a separate series of  
314 numbers and a separate record book. The original copies of all ordinances, resolutions, and  
315 motions shall be filed and preserved by the city clerk.

316 SECTION 2.14.

317 Readings.

318 No ordinance, except in the case of an emergency which shall be stated in the ordinance,  
319 shall be approved until it shall have been read at two consecutive council meetings not less  
320 than ten days apart.

321 ARTICLE III.

322 ORGANIZATION AND PERSONNEL

323 SECTION 3.1.

324 Organization.

325 The city government shall continue as presently organized, unless and until otherwise  
326 provided by ordinance. The council, by such ordinances, may establish, abolish, merge or  
327 consolidate offices, positions of employment, departments and agencies of the city; may  
328 provide that the same person shall fill a number of offices and positions of employment;  
329 and may transfer or change the functions and duties of offices, positions of employment,  
330 departments and agencies of the city.

331 SECTION 3.2.

332 Administrative duties of city manager.

333 The city manager shall be the executive head of the city government, and responsible for  
334 the efficient and orderly administration of the city's affairs. The city manager shall be  
335 responsible for the enforcement of laws, rules and regulations, ordinances, and franchises  
336 in the city; and the city attorney shall take such legal action as the city manager may direct

337 for such purposes. The city manager may conduct inquiries and investigations into the  
338 conduct of the city's affairs and shall have such powers and duties as may be provided by  
339 ordinance not inconsistent with this charter.

340 SECTION 3.3.

341 City attorney.

342 The city shall appoint a city attorney, together with such assistant city attorneys as may  
343 be authorized by ordinance. The city attorney shall be responsible for representing and  
344 defending the city in all litigation in which the city is a part; may be the prosecuting officer  
345 in the municipal court; shall attend the meetings of the council as directed; and shall advise  
346 the council, city manager, and other officers and employees of the city, concerning legal  
347 aspects of the city's affairs.

348 SECTION 3.4.

349 Oath of office.

350 Before a person takes any office in the city government, he or she shall take before an  
351 officer of the state, authorized to administer oaths, the following such oath or affirmation:  
352 'I solemnly swear (or affirm) that I will support the Constitution of the United States and  
353 of the State of Georgia; that I will in all respects observe the provisions of the Charter and  
354 ordinances of the City of Cave Spring, and I will faithfully discharge the duties of the  
355 office of [title].'



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## SECTION 3.5.

357

Political activity prohibited.

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No officer or employee of the city, other than the councilmembers, shall continue in the

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employment of the city after becoming a candidate for nomination of election to any city

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office.

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## SECTION 3.6.

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Personal financial interest.

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Any city officer or employee who has a financial interest, direct or indirect or by reason

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of ownership of stock in any corporation, in any contract with the city or in the sale of any

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land, material, supplies or services to the city or to a contractor supplying the city shall

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make known that interest by announcement at a council meeting or in writing to the city

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clerk and shall refrain from voting upon or otherwise participating in his or her capacity

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as a city officer or employee in the making of such sale or in the making or performance

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of such contract. Any city officer or employee who willfully conceals such financial

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interest or willfully violates the requirements of this section shall upon conviction be guilty

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of malfeasance in office or position and shall forfeit his or her office or position. Violation

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of this section with the knowledge express or implied of the person or corporation

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contracting with or making a sale to the city shall render the contract or sale voidable by

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the council.

375 SECTION 3.7.  
376 City planning and renewal.

377 The council may create and establish a planning commission pursuant to the provisions of  
378 general law as they now exist or as they may hereinafter be amended.

379 ARTICLE IV.  
380 FISCAL ADMINISTRATION

381 SECTION 4.1.  
382 Fiscal year.

383 The fiscal year of the city government shall begin on July 1 and shall end on June 30 of  
384 each year, but a different fiscal year may be fixed by ordinance for the entire city  
385 government or for any utility. Said fiscal year shall constitute the budget year and the year  
386 for fiscal accounting and reporting of every office, department, agency and activity of the  
387 city government, unless otherwise provided by law.

388 SECTION 4.2.  
389 City manager to submit annual budget.

390 On or before a date fixed by the council, but not later than 45 days prior to the beginning  
391 of each fiscal year, the city manager shall submit to the council a proposed operating  
392 budget for the next fiscal year, showing separately for the general funds, each utility, and  
393 each other fund the following:

- 394 (1) The revenue and expenditure during the preceding fiscal year;  
395 (2) Appropriations and estimated revenue and expenditures for the current fiscal year;

- 396 (3) Estimated revenue and recommended expenditures for the next fiscal year;  
397 (4) A comparative statement of the assets, liabilities, reserves, and surplus at the end of  
398 the preceding fiscal year and estimated assets, liabilities, reserves and surplus at the end  
399 of the current fiscal year; and  
400 (5) Such other information and data, as may be considered necessary by the council.

401 SECTION 4.3.

402 Action by council on budget.

403 Before the beginning of the ensuing fiscal year, the council shall adopt by ordinance an  
404 appropriate budget, based on the city manager's recommendation, with such modifications  
405 as the council considers necessary or desirable. Appropriations need not be in more detail  
406 than a lump sum for each department, office, and agency unless otherwise directed by the  
407 council. The council shall not make any appropriations in excess of estimated revenue,  
408 except to provide for an actual emergency threatening the health, property, or lives, safety  
409 or general welfare of the inhabitants of the city; provided the council unanimously agrees  
410 that there is such an emergency. If conditions prevent the adoption of an appropriation  
411 ordinance before the beginning of the new fiscal year, the appropriations for the last fiscal  
412 year shall become the appropriations for the new fiscal year, subject to amendment as  
413 provided by ordinance specifically passed for such purpose.

414 SECTION 4.4.

415 Additional appropriations.

416 The council may make appropriations in addition to those contained in the current  
417 operating budgets, at any regular or special meeting called for such purpose, but any such

418 additional appropriation may be made only for an existing unappropriated surplus in the  
419 fund to which it applies.

420 SECTION 4.5.

421 Lapse of appropriations.

422 All unencumbered balances of appropriations in the current operating budget at the end of  
423 the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds  
424 from which such appropriations were made.

425 SECTION 4.6.

426 Capital improvements budget.

427 (a) On or before a date fixed by the council but not later than 45 days prior to the  
428 beginning of each fiscal year, the city manager shall submit to the council a proposed  
429 capital improvements budget with his or her recommendations as to the means of financing  
430 such improvements. The council shall have power to accept with or without amendments  
431 or reject the proposed program and proposed means of financing. The council shall not  
432 authorize an expenditure for the construction of any building, structure, work or  
433 improvement, unless the appropriations for such projects are included in the capital  
434 improvements budget, except to meet a public emergency threatening the lives, health or  
435 property of the inhabitants, when passed by four-fifths vote to the membership of the  
436 council. Such capital improvements budget may be revised and extended each year with  
437 regard to the capital improvements still pending or in the process of construction or  
438 acquisition.

439 (b) Before the beginning of the ensuing fiscal year, the council shall adopt an appropriate  
440 ordinance based on the proposed capital improvements budget, with such modifications as

441 the council considers necessary or desirable. No appropriation provided for in the capital  
442 improvements budget shall lapse until the purpose for which the appropriation was made  
443 shall have been accomplished or abandoned, provided the city manager may submit  
444 amendments to the capital improvements budget at any time during the fiscal year. Any  
445 such amendments to the capital improvements budget shall become effective only upon  
446 adoption by a majority vote of the council.

447 SECTION 4.7.

448 Sale of city property.

449 The council may sell any city property which is obsolete, surplus or unusable, in  
450 conformance with Georgia law.

451 SECTION 4.8.

452 Annual audit.

453 The council shall employ a public accountant or certified public accountant to make an  
454 annual audit of all financial books and records of the city. The accountant shall file his or  
455 her report with the council and shall prepare a summary of the report which shall be  
456 furnished or made available to every councilmember.

457 SECTION 4.9

458 Publication of financial statement.

459 As soon as practicable after the close of the fiscal year, but within six months after the  
460 close thereof, the council shall cause to be published, in a local newspaper, a statement of  
461 financial condition which shall contain a statement of revenues and expenditures showing

462 all municipal accounts as of the close of such preceding fiscal year. Such statement of  
463 financial condition shall be prepared so as to fairly represent the general financial condition  
464 of the city, as of the close of the preceding fiscal year.

465 SECTION 4.10.

466 Property taxes.

467 All property subject to taxation for state or county purposes, assessed as of January 1, in  
468 each year, shall be subject to a property tax levied by the city. All property subject to  
469 taxation in the city shall be returned for taxes each year on or before April 1. If such return  
470 is not made, the council is authorized to assess a penalty of not more than ten percent of  
471 the taxes due on said property. Taxes shall be due on November 15 of each year and shall  
472 become past due or delinquent if not paid on or before December 20 of each year. The  
473 council by ordinance may elect to use the county assessment for the year in which city  
474 taxes are to be levied, or may provide for an independent city evaluation or assessment as  
475 provided by Georgia law. If an independent city assessment is made, a board of  
476 equalization, consisting of three residents of the city appointed by the council, with  
477 compensation fixed by ordinance, shall hear appeals of taxpayers taken within ten days  
478 after the city clerk has sent a notice, by ordinary mail, of a new or increased assessment;  
479 provided that such notice shall not be required, nor may appeals be taken, in the case of  
480 initial city assessments that are the same as county assessments. Except as otherwise  
481 provided in this section, appeals involving city property assessments may be taken as now  
482 or as may hereinafter be provided by general law. The council may elect to employ an  
483 outside agency to levy and collect taxes on behalf of the city.

## 484 SECTION 4.11.

## 485 Tax levy.

486 The council is authorized to make a tax levy, expressed as a fixed millage rate per \$100.00,  
487 but not in excess of the amount allowed under Georgia law, of assessed valuation.

## 488 SECTION 4.12.

## 489 Tax due date and tax bills.

490 (a) The due date of property taxes shall be November 15 of each year. The city shall send  
491 tax bills to taxpayers, showing the assessed valuations, amount of taxes due, tax due dates  
492 and information as to delinquency dates and penalties. Failure to send tax bills shall not,  
493 however, invalidate any tax. Property taxes shall become delinquent if not paid on or  
494 before December 20 of each year, at which time a penalty of ten percent in addition to a  
495 fi. fa. charge shall be added and thereafter such taxes shall be subject to interest at the rate  
496 of seven percent per annum, from the due date until paid. On and after the date when such  
497 taxes become delinquent, the tax records of the city shall have the force and effect of a  
498 judgment of a court or record.

499 (b) The city shall have the right, power and authority to provide by ordinance for the return  
500 of all real and personal property for taxation, to provide for the compelling of such return,  
501 and to provide penalties for failure to do so; to double tax defaulters, after a due notice and  
502 hearing to be prescribed by the council, for the current or any previous year, not in any  
503 conflict with any limitation prescribed by the laws of Georgia; to prescribe the time or  
504 times at which said returns are due; and to provide the time or times when said taxes shall  
505 be due and payable.

506

## SECTION 4.13.

507

## Collection of delinquent taxes.

508

The council may provide by ordinance for the collection of delinquent taxes by fi. fa.

509

issued by the city clerk and executed by the chief of police under the same procedure

510

provided by laws governing execution of such process from the superior court, or by the

511

use of any other available legal processes and remedies. A lien shall exist against all

512

property on which city property taxes are levied, as of the assessment day of January 1 of

513

each year, which shall be superior to all other liens except that it shall have equal dignity

514

with those for federal, state or county taxes.

515

## SECTION 4.14.

516

## Transfer of executions.

517

The city clerk of the City of Cave Spring shall be authorized to transfer and assign any fi.

518

fa. or execution issued for street, sewer, or any other assessment in the same manner, upon

519

the same terms, and to the same effect, and thereby vest the purchaser or transferee, with

520

the same rights as in cases of sales or transfers of tax fi. fas. as now provided by law; and

521

all sales of property hereafter made under execution in behalf of the city for the collection

522

of street, sewer and other assessments, the owner or owners, as the case may be, are

523

authorized to redeem same within the same time and in compliance with the same terms

524

and payment of the same premium, interest and costs, as in cases of redemption of property

525

where sold under state or county ad valorem tax fi. fa., as the same now exists, or as may

526

from time to time be provided by law.



527 SECTION 4.15.  
528 Special assessments.

529 The council may assess all or part of the cost of constructing, reconstructing, widening, or  
530 improving any public way, street, sidewalk, curbing gutters, sewers, or other utility mains  
531 and appurtenances, against the abutting property owners, under such terms and conditions  
532 as may be prescribed by ordinance. Such special assessments shall become delinquent 30  
533 days after their due dates, and shall thereupon be subject, in addition to fi. fa. charges, to  
534 a penalty of ten percent and shall thereafter be subject to interest at the rate of seven  
535 percent per annum from due date until paid. A lien for such amount, plus fi. fa. charges,  
536 interest and penalties, shall exist against the abutting property superior to all other liens,  
537 except that it shall be of equal dignity with liens for county and city property taxes, and  
538 said lien shall be enforceable by the same procedures and under the same remedies as  
539 provided in this article for city property taxes.

540 ARTICLE V.  
541 ELECTIONS

542 SECTION 5.1.  
543 Regular elections.

544 The regular election of councilmembers shall be held on the first Tuesday after the first  
545 Monday in November in odd-numbered years, pursuant to the Georgia Election Code.  
546 Officials elected at any regular election shall take office at the first regular meeting of the  
547 council in January next following such election. Such regular elections shall be  
548 non-partisan.

549 SECTION 5.2.  
550 Qualification of candidates.

551 Any person desiring to become a candidate in any regular or special election shall file  
552 written notice of his or her candidacy with the city clerk as set by the Georgia Election  
553 Code. The notice of candidacy shall be accompanied by such qualification fee as may be  
554 required by ordinance or by state law.

555 SECTION 5.3.  
556 Qualification of electors.

557 Any person meeting the qualifications of an elector of members of the General Assembly  
558 under state law who has been a bona fide resident of the City of Cave Spring for 30 days  
559 next preceding the election in which he or she desires to vote shall be qualified to register  
560 as an elector in any city election held under this charter.

561 SECTION 5.4.  
562 Applicability of general laws.

563 Except as otherwise provided by this charter, the election of all officials of the City of Cave  
564 Spring where provision is made for election by the qualified voters thereof shall be  
565 conducted as to primary, special or general elections in conformity so far as applicable with  
566 the provisions of the Georgia Election Code as it now exists or may hereafter be amended.

567 SECTION 5.5.

568 Time of election ballots.

569 The polls shall be opened from 7:00 a.m. to 7:00 p.m. or as set by the Georgia Election  
570 Code.

571 SECTION 5.6.

572 Place of elections.

573 The polling place or places for holding elections shall be prescribed by the council and  
574 shall be published in the election notice as required by law.

575 SECTION 5.7.

576 Voter registration.

577 In all elections held in the City of Cave Spring, whether primary, special or general  
578 elections, the voters, in addition to the qualifications already prescribed, shall be registered  
579 as may be prescribed by the Georgia Election Code or by ordinance.

580 SECTION 5.8.

581 Rules.

582 The council is hereby authorized to enact by ordinance such additional rules consistent with  
583 this charter and general laws as are deemed necessary for the conduct of elections.

584 SECTION 5.9.

585 Absentee ballots.

586 To the extent authorized by general law, the council in its discretion is authorized to  
587 provide by ordinance for absentee ballots for any city election.

588 SECTION 5.10.

589 Special elections; call.

590 The governing authority of the city may call for any special election in the manner  
591 prescribed in the general laws of the State of Georgia.

592 ARTICLE VI.

593 MUNICIPAL COURT

594 DIVISION I.

595 GENERALLY

596 SECTION 6.1.

597 Judge.

598 (a) The judge of the municipal court shall be at least 21 years of age and shall reside in  
599 Floyd County. The judge shall be appointed and serve a term as provided by general law.

600 (b) The judge shall have authority to appoint standby associate judges to serve from time  
601 to time in the judge's absence. Any standby associate judge shall possess the qualifications  
602 set forth under Georgia law for judges of municipal courts.

603 SECTION 6.2.  
604 Sessions.

605 (a) A regular session of the municipal court shall be held at least once each month at a  
606 fixed hour of a fixed day as may be determined by the judge, provided that any session may  
607 be dispensed with when there is no business pending in the court or no cases are ready for  
608 trial.

609 (b) The municipal court may hold special sessions of court when, in the judge's opinion,  
610 it is necessary or there is urgent cause for the trial of accused persons before the next  
611 regularly scheduled session of the court.

612 SECTION 6.3.  
613 Clerk of court.

614 (a) There shall be a clerk of court, appointed by the city manager.

615 (b) The clerk of court shall:

616 (1) Prepare all subpoenas and warrants and maintain a docket thereof that will show the  
617 name of the person for whom the subpoena or warrant was issued, its date, at whose  
618 instance it was issued and to whom it was delivered.

619 (2) Be the custodian of the seal of the court and have authority to certify copies of all  
620 official records of the court and to maintain the proper books of accounts, including  
621 receipts and disbursements, which the court may maintain.

622 (3) Perform such other duties as may be imposed by the judge.

623 SECTION 6.4.

624 Rules.

625 The municipal court shall be controlled by the rules of the superior court, as far as they are  
626 applicable to municipal courts, and a sound construction of the Constitutions of the state  
627 and of the United States and the charter and ordinances of the city.

628 SECTION 6.5.

629 Practice.

630 The city shall have the opening and conclusion of each case, unless the defendant  
631 introduces no evidence; then the defendant shall be entitled to the conclusion. The city  
632 shall announce first whether it is ready for trial, and if not ready shall be held to as strict  
633 a showing for a continuance as the defendant. The rules of evidence shall be the same as  
634 in the superior court, as far applicable to the case on trial.

635 SECTION 6.6.

636 Persons charged with offense; summons; trial.

637 Any person who is charged with an offense against any of the provisions of this charter or  
638 any ordinance of the city shall be informed by summons in writing served on him or her  
639 of the nature and cause of the accusation; shall have compulsory process for obtaining  
640 witnesses in his or her behalf; shall have a speedy trial; shall be confronted with the  
641 witnesses against him or her; and shall have the privilege of cross-examination as in the  
642 superior courts of this state. The same rules shall apply as to examination of witnesses and  
643 the evidence adduced as obtained in such court, as far as they are applicable to cases before  
644 the municipal court. The person accused shall have the privilege of defending himself or

645 herself, by counsel or by himself or herself, or both, whichever shall seem proper to him  
646 or her. No one shall be condemned, fined or punished without a chance of being heard in  
647 his or her defense.

648 SECTION 6.7.

649 Form and execution of summons.

650 It shall be the duty of the clerk of court in all cases where complaint is made or information  
651 given of any violation of the laws or ordinances of the city, whether the accused is confined  
652 in jail or not, to issue a summons directed to the accused requiring him or her to appear in  
653 the municipal court to answer such charge, which summons shall set forth the offense and  
654 the time and place of trial, be issued under the authority of the judge of the municipal court,  
655 be signed officially by the clerk and directed to the director of public safety or chief of  
656 police or any police officer of the city to be executed, which police officer shall execute  
657 the same by serving a copy on the accused or leaving it at his or her place of residence.

658 SECTION 6.8.

659 Witness-Subpoena.

660 Whenever the attendance of any witness may be required before the municipal court to  
661 establish any fact, the clerk of court shall issue a subpoena, directed to the witness, stating  
662 the time and place of trial and the parties to the case, and bearing teste in the name of the  
663 judge of the municipal court, which subpoena shall be served as other summons by any  
664 police officer.

665 SECTION 6.9.

666 Witness-Defaulting.

667 If any person, summoned as a witness under this article, shall fail, neglect or refuse to  
668 attend a trial or render at the time of trial an insufficient excuse in the judgment of the  
669 court, the defaulting witness shall be liable to a penalty. If the case shall be continued on  
670 account of the witness's absence, the court may issue an attachment against such witness,  
671 requiring him or her to show cause on the day appointed for trial why he or she should not  
672 be further dealt with for contempt. Any police officer, by virtue of such attachment, shall  
673 arrest and confine the person, so as to have him or her before the court at such time as may  
674 be appointed for further hearing of the original complaint.

675 SECTION 6.10.

676 Continuances.

677 Where the ends of justice require it, cases may be continued. All continuances shall be  
678 addressed to the sound legal discretion of the court under the rules governing the superior  
679 courts of this state.

680 SECTION 6.11.

681 Plea of guilty in absence of defendant.

682 Any person against whom any complaint is lodged or information given in the municipal  
683 court may file a plea of guilty under such regulations and upon such terms as the court may  
684 prescribe. If such person cannot attend the trial, the court may pass such order or sentence  
685 in the case as if the person were personally present.



686 SECTION 6.12.

687 Persons implicated to be tried.

688 If on the trial of any case before the municipal court, it appears that any other person  
689 besides the one on trial has violated a provision of this charter or any ordinance of the city,  
690 he or she may then and there be tried, if present, unless the case is continued for legal  
691 cause.

692 SECTION 6.13.

693 Contempt of court.

694 Any person who, during a sitting of the municipal court, shall be guilty of contempt of  
695 court, or refuse to abide by any sentence or order of such court, shall be punished in  
696 accordance with the laws of Georgia.

697 SECTION 6.14.

698 Docket.

699 A docket shall be kept in the office of clerk of court on which shall appear the name of  
700 every defendant charged with a violation of this charter or any city ordinance, or of any  
701 offense over which the municipal court has jurisdiction. At the trial of all cases in the  
702 municipal court, the judge of the municipal court shall record opposite the statement of the  
703 case the punishment inflicted and the date; and the clerk of court shall enter, under the  
704 judge of the municipal court's sentence, the final disposition of the case, that is, whether  
705 the fine, if any, was collected and the date of such collection and when and to whom such  
706 amounts were turned over by the clerk of court.

707

## SECTION 6.15.

708

## Enforcement of penalties against corporations.

709

To the extent authorized by general law, whenever a corporation shall violate any provision

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of this charter or any ordinance of the city, a warrant shall issue against such corporation

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for violating such provision, and the clerk of court shall issue a copy of such warrant,

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which shall be served by the director of public safety or chief of police or any police officer

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of the city upon any officer of the corporation to be found in the city, or upon the agent,

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superintendent or person in charge of the business of the corporation in the city. The police

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officer serving such copy shall at the time notify the person upon whom such service is

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made of the time and place of trial; and shall make an entry of such service upon the

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warrant, showing the time of service and upon whom the service was made; and return the

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same to the municipal court, and docket the case, which case shall stand for trial in the

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order in which other cases against individuals for violation of ordinances of the city are

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tried. If, on the trial, the defendant corporation fails to appear, or appearing fails to plead,

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the judge of the municipal court shall cause to be entered a plea of not guilty, and trial shall

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proceed as though the defendant had appeared and pleaded. Upon conviction of any

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corporation, there shall be rendered judgment against it for the fine imposed by the judge

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of the municipal court, together with all costs of prosecution, upon which judgment the

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clerk of court shall issue an execution against the defendant, which shall be levied and

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collected by the director of public safety or chief of police as tax executions in favor of the

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city are levied and collected.

728 DIVISION II.  
729 APPEARANCE BOND

730 SECTION 6.16.  
731 Security; maximum amount.

732 Any person authorized to do so pursuant to law may take bond, with security or without  
733 security, at discretion, in a sum not exceeding \$5,000.00 per violation or offense for the  
734 appearance of any person accused or suspected of being guilty of a violation of any  
735 provision of this charter or any ordinance of the city, or any offense over which the  
736 municipal court has jurisdiction, to stand to and abide by his or her trial before the  
737 municipal court; and also of witnesses to testify in any case pending or about to be  
738 commenced in such court.

739 SECTION 6.17.  
740 Forfeiture for failure to appear; service of rule.

741 All bail taken under this charter shall be special bail and the power of the security over the  
742 principal shall be the same as in special bail. Upon the failure to appear of any principal,  
743 in any bond or recognizance given by a person charged with a violation of any provision  
744 of this charter or any ordinance of the city, or of any offense over which the municipal  
745 court has jurisdiction, or by a witness to appear and testify, the judge of the municipal court  
746 shall pass a rule requiring the principal and sureties on such bond to show cause on any day  
747 therein named, not to be less than ten days from the passage of such rule, why they should  
748 not be required to pay the amount of such bond. A copy of such rule shall be served upon  
749 the principal of the sureties, by any officer or member of the police force, if found in the  
750 city, at least five days before the time therein set for hearing the same.

751 SECTION 6.18.

752 Judgment.

753 If no sufficient cause is shown, the judge of the municipal court shall proceed to enter  
754 judgment against such principal and sureties for the amount of the bond forfeited as  
755 provided in Section 6.17. The clerk shall issue execution for the amount of such judgment  
756 and place the same in the hands of the director of public safety or chief of police, who shall  
757 proceed to collect the same by levy and sale as in case of tax executions.

758 SECTION 6.19.

759 Surrender of principal.

760 Any surety upon a bail bond of any person charged with a violation of a provision of this  
761 charter or a city ordinance, or of any offense over which the municipal court has  
762 jurisdiction, may surrender his or her principal at any time to the director of public safety  
763 or chief of police, who shall confine such principal, until discharged by order of the judge  
764 of the municipal court, or other proper officer, or by giving other and good security. The  
765 delivery of the principal as provided in this section shall discharge the sureties of all further  
766 liability upon such bond; provided, that delivery shall be before any judgment of forfeiture  
767 upon the bond shall have been entered.

768 SECTION 6.20.

769 General penalty; continuing violation; adjudging fines and imprisonments.

770 (a) Whenever in this charter or code any act is prohibited or is made or declared to be  
771 unlawful or an offense, or whenever in such code the doing of any act is required or the  
772 failure to do any act is declared to be unlawful, where no specific penalty is provided



797

**SECTION 2.**

798 The mayor and those members of the city council of the City of Cave Spring who are serving  
799 as such immediately prior to the effective date of this Act and any person selected to fill a  
800 vacancy in any such office shall continue to serve as such members until the regular  
801 expiration of their respective terms of office and upon the election and qualification of their  
802 respective successors, provided that there shall be no successor to the mayor.

803

**SECTION 3.**

804 All laws and parts of laws in conflict with this Act are repealed.