

ARVADA FIRE PROTECTION DISTRICT

BOARD MEMBER MANUAL

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CHAPTER I INTRODUCTION

Welcome to the Board of Directors of the Arvada Fire Protection District. Serving as a Board member of this dynamic, progressive and high quality Fire Protection District will be challenging and exciting. On June 10, 1907, the Arvada Town Board approved the purchase of Arvada's first fire engine. The hand-drawn chemical fire engine arrived by rail from New York City four months later, and efforts to organize a volunteer fire company came shortly thereafter.

A group of volunteers known as the Arvada Fire Company was established early in 1908. By the fall of 1909, these volunteers were equipped with a ladder, 100 feet of fire hose, two hand axes and six lanterns, in addition to 14 portable fire extinguishers and the Rex chemical engine purchased in 1907. On May 10, 1910, the Town board authorized the purchase of Arvada's first hand-drawn fire hose carts – two carts equipped with automatic gongs and wheels that stood more than five feet tall. Two small groups of men known as hose companies emerged following the purchase of Arvada's hose carts.

On December 11, 1911, Arvada's hose companies consolidated and recorded the formation of the Arvada Fire Department. At that time, Arvada consisted of about 840 residents and enough small businesses to provide townspeople with essential goods and services. On April 20, 1999, the District Board voted to consolidate the Arvada Volunteer Fire Department and the Arvada Fire Protection District. Prior to the consolidation, Arvada's 185-member fire department was regarded as the largest all-volunteer fire department west of the Mississippi River. The Arvada Fire Protection District employed a District manager and about 20 personnel devoted to fire code enforcement, dispatching and maintenance of the stations, and the equipment and vehicles used by the Volunteer Fire Department. The District Board approved hiring 18 career firefighters by June 1, 1999. On November 2, 1999, the taxpayers approved the funding to hire an additional 50 career firefighters, enabling seven of the District's eight stations to be staffed with career firefighters at all times. Today, the District operates fire and emergency services units out of eight stations. Services provided by the District include fire prevention and investigation, public education, fire suppression, hazardous materials response, rescue, ambulance transport and Advanced Life Support (ALS) emergency medical care.

The District is governed by a five member Board of Directors and is administered by a Fire Chief.

CHAPTER II BOARD POWER AND AUTHORITY

A. Statutory Power and Authority

The Colorado Special District Act, C.R.S. § 32-1-101, *et seq.* (the "Special District Act") sets forth the specific power and authority of the Board. For and on behalf of the District, the Board, through a majority vote, has the following authority and powers:

- (1) To have perpetual existence;
- (2) To have and use a corporate seal;
- (3) To sue and be sued and to be a party to suits, actions, and proceedings on behalf of the District;
- (4) (a) To enter into contracts and agreements affecting the affairs of the District, including contracts with the United States and any of its agencies or instrumentalities. Except in cases in which the District will receive aid from a governmental agency or purchase through the State purchasing program, a notice shall be published for bids on all construction contracts for work or materials, or both, involving an expense of \$60,000 or more of public moneys. The Board may reject any and all bids, and if it appears that the District can perform the work or secure material directly or from another source for less than the lowest bid, the Board may proceed to do so;
- (b) No contract for work or material, including a contract for services, regardless of the amount, shall be entered into between the District and a member of the Board of Directors or between the District and the owner of 25% or more of the territory within the District unless a notice has been published for bids and such member or owner submits the lowest responsible and responsive bid;
- (5) To borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, and to issue bonds, including revenue bonds, and to invest any moneys of the District in accordance with Part 6 of Article 75 of Title 24, C.R.S.;
- (6) To acquire, dispose of, and encumber real and personal property including, without limitation, rights and interests in property, leases, and easements necessary to the functions or the operation of the District; except that the Board shall not pay more than fair market value and reasonable settlement costs for any interest in real property and shall not pay for any interest in real property that must otherwise be dedicated for public use or the District's use in accordance with any governmental ordinance, regulation, or law;
- (7) To refund any bonded indebtedness as provided in Part 13 of Article 32, or Article 54 or 56 of Title 11, C.R.S.;
- (8) To manage, control and supervise all of the business and affairs of the District, as defined in the Special District Act, directly or through a manager and/or an administrative staff, as the Board deems appropriate in its sole discretion, including all construction, installation, operation, and maintenance of District improvements;
- (9) To appoint, hire, and retain agents, employees, engineers, accountants, advisors, consultants and attorneys;
- (10) To furnish services and facilities outside the District's boundaries, and to establish fees, rates, tolls, penalties, or charges for such services and facilities as allowed by law;

(11) To accept or dispose of, on behalf of the District, title to real or personal property, and to accept gifts and conveyances made to the District upon such terms and conditions as the Board may approve;

(12) To adopt, amend and enforce bylaws, standard operating procedures and rules and regulations not in conflict with the constitution and laws of the State of Colorado for carrying out the business, objects, and affairs of the Board and the District;

(13) To acquire, dispose of, or encumber fire stations, fire protection and firefighting equipment, and any interest therein, including leases and easements;

(14) To have and exercise the power of eminent domain and dominant eminent domain and, in the manner provided by Article 1 of Title 38, C.R.S., to take any property necessary to the exercise of the powers granted, both within and without the District;

(15) To undertake and operate as a part of the duties of the District an ambulance service, an emergency medical service, a rescue unit, a hazardous materials response unit and a diving and grappling service, including contracting or combining with other entities to provide such services as allowed by law;

(16) To adopt, amend and enforce fire codes, as the Board deems necessary, but no such code shall apply within any municipality or the unincorporated portion of any county unless the governing body of the municipality or county, as the case may be, adopts a resolution stating that such code or specific portions thereof shall be applicable within the District's boundaries;

(17) To fix and from time to time increase or decrease fees and charges within its jurisdiction and the Board may pledge such revenue for the payment of any indebtedness of the District. All unpaid fees and charges constitute a perpetual lien against the property served. The lien is entitled to priority over other encumbrances, such as prior recorded deeds of trust (but not tax liens). A penalty may be assessed against all delinquencies in payment, together with the assessment of interest not to exceed one percent per month. Service may be discontinued against any property whose owner is delinquent in the payment of fees or charges. The District may impose the following fees and charges:

- a) Ambulance or emergency medical services and extrication, rescue, or safety services provided in furtherance of ambulance or emergency medical services. "**Extrication, rescue, or safety services**" includes but is not limited to any: (1) services provided prior to the arrival of an ambulance; (2) rescue or extrication of trapped or injured parties; and (3) lane safety or blocking provided by District equipment;
- b) Requested or mandated inspections, including plan reviews;
- c) Hazardous incident responses;
- d) Emergency Services provided outside the jurisdiction of the District to the extent allowed by law; and,

- e) With the prior approval of the City or the County, as applicable, impose an impact fee on new development within the District's jurisdiction.

(18) In areas of the District where a county or municipality has rejected the adoption of a fire code submitted by the District, to compel the owners of premises, whenever necessary for the protection of public safety, to install fire escapes, fire installations, fire proofing, automatic or other fire alarm apparatus, fire extinguishing equipment or other safety devices to the extent allowed by law;

(19) To create and maintain one or more paid firefighters' pension fund(s), under the provisions of Parts 2 and 4 of Article 30.5 of Title 31, C.R.S., subject to the provisions of Article 31 of Title 31, and one or more volunteer firefighter pension fund(s) under Part 11 of Article 30 of Title 31, C.R.S.;

(20) To authorize the use of electronic records or signatures and adopt rules, standards, policies, and procedures for use of electronic records or signatures pursuant to article 71.3 of title 24, C.R.S.; and,

(21) To have and exercise all rights and powers necessary or incidental or implied from the specific powers granted to the District by the Special District Act. Such specific powers should not be considered as a limitation on any power necessary or appropriate to carry out the purposes and intent of the Special District Act.

B. No Authority For Individual Board Members

The Board can only act through a majority vote of the Board members. Individual Board members have no power or authority to take any action or make any statement on behalf of the Board or the District. Individual Board members do not have the power or authority to direct District employees or volunteers to take any action. Individual Board members shall not give directions to the Fire Chief or other District employees or volunteers, except as specifically authorized by a majority vote of the Board members. In order to foster an effective and efficient line of communication between Chief Staff and the Board, communications between the Board, or individual Board members, and Chief Staff shall be directed to the Fire Chief, unless otherwise determined by a majority vote of the Board members.

Nothing in this Manual or any other District rule, policy or procedure is intended to, and shall not be construed as, prohibiting an individual Board member from exercising his/her First Amendment right to state his/her personal opinion on any matter of public concern, as long as the individual Board member does so in a manner that ensures the recipients of the individual Board member's opinions understand that the Board member is expressing his/her personal opinion and is not authorized to express, and is not expressing, the opinion or position of the Board.

CHAPTER III BOARD MEMBERSHIP

A. Qualifications – Definition of "Eligible Elector"

To qualify as a Director of the District, an individual must be an “eligible elector” of the District. To be an “eligible elector” of the District, an individual must be a registered voter of Colorado and be:

1. A resident of the District; OR
2. A person who owns, or whose spouse or civil union partner owns, taxable real or personal property within the District's boundaries, regardless whether that person resides within the District or not.
 - i. Ownership of a mobile home (C.R.S. § 38-12-201.5(2) or § 5-1-301(29)), or a manufactured home (C.R.S. §4 2-1-102 (106) (b)) constitutes ownership of real property;
 - ii. A person who is obligated to pay taxes under a contract to purchase taxable property within the District's boundaries is a property owner.

Director qualifications must be met at the time of signing the self-nomination affidavit (or at the time of appointment by the Board, if filling a vacancy), and must be maintained through a Director's term of office in order to remain qualified to serve as a Director. A Director cannot receive compensation as an employee of the District.

B. Officers

The officers of the Board of Directors consists of a President; Vice-President; Treasurer; Secretary; and, Assistant Secretary/Treasurer.

C. Director Oaths and Bonds

Each Director must take an oath of faithful performance within 30 days of being elected or appointed. The oath must be administered by a qualified official, such as the Board President or a notary public, and filed with the Clerk of the Jefferson County District Court, the Clerk and Recorder for Jefferson County, and the Division of Local Government.

Each Director also must file an individual, schedule or blanket surety bond of not less than \$1,000, with the Clerk of the Jefferson County District Court. If the Director also serves as the Board Treasurer, a corporate fidelity bond of at least \$5,000 also must be filed with the Jefferson County District Court. The District Board determines the actual amount of the bond. The District pays for the bonds and handles the necessary filings on behalf of the Directors and Treasurer.

D. Director Vacancies

A Director position is deemed automatically vacant if any of the following occurs:

- (1) Failure to meet the qualifications of Director;
- (2) Failure to satisfy the oath and bond requirements;
- (3) Written resignation;
- (4) Failure to remain qualified for the office;
- (5) Conviction of a felony;
- (6) Removal from office or voidance of election by court (subject to appeal);
- (7) Failure to attend three consecutive regular Board meetings, unless approval of the absence is entered in the minutes, or the absence is excused by mental or physical disability or illness; or
- (8) Death.

The remaining Directors must appoint a qualified individual to fill the vacancy within 60 days. If the vacancy is not filled within 60 days, the Board of County Commissioners of Jefferson County may make the appointment. The appointed Director serves until the next regular Board election (Tuesday succeeding the first Monday of May of even-numbered years), at which time the vacancy is filled by election.

E. Term Limits

The Colorado Constitution prohibits a Director from serving more than two consecutive terms of office. The limitation applies only to terms that began after January 1, 1995. Term limits apply only to elected four-year terms, not to interim terms that arise by appointment to fill a vacancy or to elected two-year terms created due to a vacancy. The Colorado Constitution allows the voters to modify or eliminate Director term limits, and in May, 2016 the voters approved extending Director terms limits to three consecutive terms of office.

F. Mandatory Filings and Notices

Directors are responsible for assuring the District delivers certain mandatory filings and notices and takes certain actions. The following schedule provides the primary actions:

ACTION	OFFICE	DEADLINE
A current, accurate map of the District boundaries. §32-1-306, C.R.S.	Division of Local Government, County Assessor, County Clerk & Recorder	January 1.

ACTION	OFFICE	DEADLINE
<p>Notice to Electors (“Transparency Notice”) stating: §32-1-104(2), C.R.S. and §32-1-809(1), C.R.S.</p>	<p>Board of County Commissioners, County Assessor, County Treasurer, County Clerk and Recorder, governing body of any municipality in which District is located, Division of Local Government and to the residents and qualified voters of a District using one of the</p>	<p>January 15 of each year, but no earlier than 60 days before January 15.</p>
<p>(i) Address and telephone number of the District's principal office; (ii) name and telephone number of the District's manager or other primary contact person; (iii) the names of and contact information for the board members, the name of the board chair, and the name of each member whose office will be on the ballot at the next regular special district election; (iv) the times and places designated for regularly scheduled meetings of the board during the year and the place where notice of board meetings is posted; (v) the current mill levy of the District and the total ad valorem tax revenue received by the District during the last year; (vi) the date of the next regular District election at which members of the board will be elected; (vii) information on the procedure and time for an eligible elector of the District to submit a self-nomination form for election to the board pursuant to section 32-1-804.3; (ix) the address of any web site on which the District's election results will be posted, and information on</p>	<p>following notice procedures: (i) mailing the notice separately to each household where one or more eligible electors of the District resides; <u>or</u> (ii) including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card or other notice of election, or other informational mailing sent by the District to the eligible; <u>or</u> (iii) posting the information on the official web site of the District if there is a link to the District's web site on the Division of Local Government's official web site; <u>or</u> (iv) if the District is a member of a statewide association of special districts formed pursuant to section 29-1-401, C.R.S., by mailing or electronically transmitting the notice to the statewide association of special districts, which association shall post the notice on a publicly accessible section of the association's web site.</p>	

ACTION	OFFICE	DEADLINE
the procedure for an eligible elector to apply for a permanent absentee voter status.		
Resolution designating the District's agenda notice posting location. §24-6-402(2)(c), C.R.S.	None	First meeting of the Board of Directors of each year.
Post Notices of meetings of a quorum of the Board: Regular meetings. §32-1-903(2), C.R.S.	County Clerk and Recorder, three public locations within District boundaries	Seventy-two hours prior to meetings throughout the year. Legal counsel recommends once at the beginning of each year.
Special meetings. §32-1-903(2), C.R.S.	County Clerk and Recorder; at least three public locations within District boundaries	Seventy-two hours prior to any special meeting.
Certified copy of adopted budget including the budget message and any resolutions adopting the budget, appropriating monies, and fixing the rate of the mill levy. §29-1-113(1), C.R.S.	Division of Local Government	No later than January 31 (enact Resolution adopting budget by December 15, if certifying mill levy, or December 31, if not levying property taxes).
Updated information list of all contracts in effect with other political subdivisions. §29-1-205, C.R.S.	Division of Local Government	Upon request of the Division of Local Government.
Report of outstanding non-rated public securities as of the end of the fiscal year. §11-58-105, C.R.S.	Division of Local Government.	March 1.
Application for audit exemption (if applicable). §29-1-604, C.R.S.	State Auditor	March 31.
Audit report. §29-1-606, C.R.S.	State Auditor	30 days after report is received, but not later than July 31.
Notice of Cancellation of Election and Resolution Cancelling Election (if applicable). §§1-11-103, 1-13.5- , C.R.S.	Division of Local Government.	No specific deadline.

ACTION	OFFICE	DEADLINE
Certificate of Election results. §1-11-103, C.R.S.	Division of Local Government. File with Division of Securities and Board of County Commissioners if debt authorization election.	Within 30 days after election day.
Annual Report. §32-1-207(3)(c), C.R.S.	Board of County Commissioners, any municipality in which District is located, Division of Local Government, State Auditor, and County Clerk Government, State Auditor, and County Clerk	Upon request of Board of County Commissioners or Municipality.
Certification of mill levy. §39-5-128(1), C.R.S.	Board of County Commissioners	December 15.
Resolution Appropriating Sums of Money. §29-1-113 C.R.S.	Division of Local Government	Adopt prior to Certification of mill levies (December 15), or prior to December 31 if not levying property taxes.

G. Fiduciary Obligations

By statute and under common-law, each Director serves as a fiduciary to the District, as defined below:

The holding of public office or employment is a public trust, created by the confidence the electorate reposes in the integrity of public officers, members of the general assembly, local government officials, and employees. A public officer, member of the general assembly, local government official, or employee shall carry out his duties for the benefit of the people of the state. * * * A public officer, member of the general assembly, local government official, or employee whose conduct departs from his fiduciary duty is liable to the people of the state as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust.

C.R.S. §24-18-103(1) and (2).

This fiduciary obligation does not extend to each individual District resident, but rather to the District itself. As a fiduciary, a Director has the duty to exercise the utmost good faith, business sense and good judgment on behalf of the District. Each Director must place the interests of the District above his or her self-interests. A Director is prohibited from taking personal advantage of a situation to benefit him or her or to prejudice the District.

H. Compensation

As permitted by statute, District Directors receive \$100 per meeting, with an annual cap of \$1,600. Reimbursement of a Director's actual expenses is not considered compensation. Actual expenses may include mileage and out-of-pocket expenses incurred in service as a Director.

I. Gifts or Donations Made by District

The Colorado Constitution prohibits the District from making a donation or grant to or in aid of an entity. District support for charitable or non-profit community events is not prohibited; however, such contributions must be reasonably tied directly or indirectly to the purposes for which the District was organized.

J. Rules of Conduct and Ethical Guides

The holding of public office or public employment is a public trust, and Directors owe a fiduciary duty to carry out their duties for the benefit of the people of the District and the State. The Colorado statutes (C.R.S. § 24-18-101 through -113 and § 24-18-201 through -206) set forth rules of conduct and ethical "guides" for Director conduct.

1. General Rules of Conduct for Directors

Proof beyond a reasonable doubt that a Director has committed any of the following acts is proof that the Director breached his/her fiduciary duty and the public trust:

- (a) Disclosing or using confidential information acquired in the course of his/her official duties in order to further substantially personal financial interests;
- (b) Accepting a gift of substantial value, or an economic benefit tantamount to a gift of substantial value, which would tend improperly to influence a reasonable person in his/her position to depart from the faithful and impartial performance of his/her duties, or which the Director knows or reasonably should know is primarily intended to reward him/her for official action he/she has taken;
- (c) Engaging in a substantial financial transaction for his/her private business purposes with a person whom the Director or employee inspects or supervises in the course of his official duties.
- (d) Performing an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the Director either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or
- (e) Accepting goods or services for the Director's personal benefit from a person who is providing goods or services to the District under a contract or other means by which the person receives payment or other compensation from the District, unless the totality of the circumstances indicates that the transaction is legitimate, the terms are fair to both parties, the transaction is supported by full and adequate consideration, and the Director does not receive any substantial benefit as a result of his /her District status that is not available to members of the general public.

For purposes of this Section J, an economic benefit tantamount to a gift of substantial value includes, without limitation:

- (1) A loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such service; or
- (2) The acceptance of goods or services for the Director's personal benefit from a person who is providing goods or services to the District under a contract or other means by which the person receives payment or other compensation from the District, unless the totality of the circumstances indicates that the transaction is legitimate, the terms are fair to both parties, the transaction is supported by full and adequate consideration, and the Director does not receive any substantial benefit as a result of

his/her District status that is not available to members of the general public.

For purposes of this Section J, the following are not gifts of substantial value or an economic benefit tantamount to a gift of substantial value:

- (1) Campaign contributions and contributions in kind reported as required by the Fair Campaign Practices Act;
- (2) An unsolicited item of trivial value;
- (3) A gift with a fair market value of fifty-three dollars (\$53) or less that is given to the Director by a person other than a professional lobbyist;
- (4) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (5) Unsolicited informational material, publications, or subscriptions related to the performance of official duties on the part of the Director;
- (6) A gift given by an individual who is a relative or personal friend of the Director on a special occasion.
- (7) Payment of salary from employment, including other government employment, in addition to that earned from being a District Director; and
- (8) A component of the compensation paid or other incentive given to the Director in the normal course of employment.

It is not a breach of fiduciary duty and the public trust for a Director to use local government facilities or equipment to communicate or correspond with the Director's constituents, family members, or business associates, or to accept or receive a benefit as an indirect consequence of transacting District business.

A Director who has a personal or private interest in any matter proposed or pending before the Board shall disclose such interest to the Board and may not vote on the matter or attempt to influence the decisions of the other Directors in voting on the matter; provided, however, that a Director may vote on a matter in which he/she has a personal or private interest if:

- (a) The Director's participation is necessary to obtain a quorum or to enable the Board to act;
- (b) The Director discloses the interest in writing to the Secretary of State, listing the amount of his or her financial interest, the purpose and duration of his or her services rendered, the compensation received for the services, and such other information as is necessary to describe his interest; and

- (c) At the time of voting on the matter, the Director states for the record the fact and summary nature of the interest.

2. Ethical Guides

Directors shall comply with the following ethical guides in the performance of their public duties:

- (a) A Director should not acquire or hold an interest in any business or undertaking which he/she has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by District.
- (b) A Director should not, within six (6) months following the termination of his/her office, obtain employment in which he/she will take direct advantage, unavailable to others, of matters with which he/she was directly involved during his term of service on the District Board.
- (c) A Director should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he/she has a substantial financial interest in a competing firm or undertaking.
- (d) Directors are discouraged from assisting or enabling members of their immediate family in obtaining employment, a gift of substantial value, or an economic benefit tantamount to a gift of substantial value from a person whom the Director is in a position to reward with official action or has rewarded with official action in the past.

K. Interest in Contracts

Directors shall not be interested in any contract made by them in their official capacity or by the Board, except that:

- (a) "***Be interested in***" does not include holding a minority interest in a corporation; and
- (b) "***Contract***" does not include:
 - i. Contracts awarded to the lowest responsible bidder based on competitive bidding procedures;
 - ii. Merchandise sold to the highest bidder at public auctions;

- iii. Investments or deposits in financial institutions that are in the business of loaning or receiving money;
- iv. A contract with an interested party if, because of geographic restrictions, the District could not otherwise reasonably afford the subject of the contract. It is presumed that the District could not otherwise reasonably afford the subject of the contract if the additional cost to the District is greater than 10% of the contract with the interested party, or if the contract is for services that must be performed within a limited period of time and no other contractor can provide the services within that time period;
- v. A contract with respect to which the Director has disclosed a personal interest and has not voted thereon, or with respect to which the Director discloses the interest in writing to the Secretary of State, listing the amount of his/her financial interest, the purpose and duration of his/her services rendered, the compensation received for the services, and such other information as is necessary to describe his interest and at the time of voting on the matter, the Director states for the record the fact and summary nature of the interest.

In addition to the above, Directors shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity. Pursuant to State statute, every contract made in violation of this Section K is voidable by any party to the contract except the interested Director.

L. Bylaws, Rules & Regulations, and Policies

The Board may, but is not required to, adopt bylaws or policies to govern certain aspects of Board membership. The Board has adopted this Board Member Manual.

The Board is authorized to adopt, and has adopted, a Member Handbook and Payroll Procedures Manual that sets forth the Board's policies with respect to the administration, operation and management of the District. In the Member Handbook, the Board has authorized the Fire Chief to implement the policies established by the Board through Standard Operating Procedures (SOPs).

CHAPTER IV BOARD MEETINGS

A. Calling the Meeting

1. Designation of Time and Place

The Board must pass a resolution at the first regular meeting of each year designating the time and place for all regular Board meetings for the year, and designating at least three public places

within the District where notice of the meetings will be posted, in addition to posting notice at the office of the clerk and recorder for Jefferson County.

2. Notice of Meetings

Written notice of regular and special meetings (including a study/work session) shall be posted in three-places within the District and at the office of the clerk and recorder for Jefferson County. The Notice issued pursuant to Chapter IV(1), above, shall constitute formal notice of regular meetings to Board members and no other notice need be given to the Board, other than notice of a special meeting, which shall be posted at least seventy-two (72) hours before such meeting. If the Board intends to make a final determination on any of the following issues at a regular or special meeting, the notice shall specifically state that fact in the Notice:

- (a) issue or refund general obligation indebtedness;
- (b) consolidation of the District;
- (c) dissolution of the District;
- (d) filing a plan for adjustment of debt under federal bankruptcy law;
- (e) entering into a private contract with a Director; or
- (f) not making a scheduled bond payment.

Any Director may call a special meeting of the Board by informing the other Directors of the date, time and place of the special meeting, and the purpose for which it is called, and by posting notice of the special meeting in accordance with this section. A study/work session shall constitute a special meeting at which no Board action shall be taken unless specifically stated on the notice for the special meeting.

3. Meetings and Study/Work Sessions Are Open to the Public

Except for executive session, all regular and special meetings, including all study/work sessions, shall be open to the public. Historically, the Colorado Sunshine Law was not believed to apply to chance meetings or social gatherings at which discussion of public business was not the central purpose; however, subsequent Colorado Court decisions have called this traditional thinking into question, and the District's legal counsel recommends that any time three or more Board members meet—even while attending another board's meeting—it should be considered a public meeting and be properly noticed. The Colorado Sunshine Law requirements apply to a Board study/work session, which constitutes a special meeting. They do not apply to staff meetings where a quorum of the Board is not present.

All meetings of the Board—whether characterized as study/work sessions, special meetings or otherwise—shall be open to the public, including reporters, attorneys and any other representatives.

4. Requested Notice

The District must keep a list of all individuals requesting notice of meetings and provide reasonable advance notice to those individuals. Once an individual has requested individualized

notice, the District must include the individual on the list for two years. What constitutes "reasonable" notice is left to the District's discretion. Inadvertent failure to provide notice to a listed person will not invalidate the meeting or actions taken at the meeting.

5. Emergency Meetings

Two or more Directors may call an emergency meeting in the event of an emergency that requires the immediate action of the Board in order for the District to carry out its statutory duties and provide fire and emergency services to the citizens and property within its jurisdiction. The Fire Chief or his/her designee shall properly notify the other Directors that an emergency meeting has been called. At such an emergency meeting, the Board, by affirmative majority vote, may take any action within the express and implied powers of the Board to carry out its statutory duties and necessary to provide fire and emergency services to the citizens and property within the District's jurisdiction; provided however, any action taken at an emergency meeting shall be effective only until the first to occur of (a) the next regular meeting or (b) the next special meeting of the Board, at which the emergency issue is on the public notice of the meeting. At such subsequent meeting the Board may ratify any emergency action taken. If any emergency action taken is not ratified, then it shall be deemed rescinded.

B. Conduct of Meetings

1. Quorum

All official business of the Board must be transacted at a regular or special meeting at which at least a quorum of three Directors are present, except as otherwise provided in this Manual. A "**quorum**" means more than one-half (1/2) of the number of Directors serving on the Board. Vacancies shall not be counted for purpose of determining whether a quorum is present.

2. Rules Governing Meetings and Study/Work Sessions

To the extent practicable, the Board follows the latest edition of *Roberts' Rules of Order* as a procedural guide for conducting meetings, with the following amendments:

(a) The reading of the text of minutes, financial statements, or proposed Resolutions into the record is not required; and

(b) The President/Chairperson may make a Motion and may vote on any Motion.

(c) In the absence of the President at a meeting, the following officers shall serve as the Chairperson in descending order:

- i. Vice-President; or,
- ii. Secretary.

3. Voting

All Board actions require the affirmative vote of a majority of the Directors present and voting. When special or emergency circumstances affecting the affairs of the District and the health and safety of District residents so dictate, reasonable efforts must be made to locate and notify all Directors, at which time those Directors available may undertake whatever action is considered necessary and may instruct District members to carry out said actions. A majority of the Board members must consider the emergency actions taken at the next regular or special meeting and determine whether the actions will be ratified by a majority of the District Board. Voting by proxy is prohibited.

4. Participation Electronically or by Other Means of Communication

A Director is permitted to participate in a Board meeting by telephone, electronically or by other means of communication where the Director can hear all other Directors and they can hear the Director.

5. Order of Business

The business of all regular meetings of the Board shall be transacted, to the extent practicable, in accordance with a set agenda. The agenda for a special meeting (including a study/work session) shall be as set forth in the notice of the special meeting, or if an agenda is not set forth in the notice, then as determined by the Board at the beginning of the special meeting.

6. Notice to Directors

All Directors must be notified of any special meeting, including any study/work session.

7. Notice to Public

(a) 72-hour Notice

Notice of the time and place of a special meeting (including a study/work session) must be posted in at least three public places within the District, and in the office of the clerk and recorder for Jefferson County, at least seventy-two hours prior to the meeting. The notice must specifically state if any of the following acts will be taken at the meeting:

- i. a final determination to issue or refund general obligation indebtedness;
- ii. consolidation of the District;
- iii. dissolution of the District;
- iv. filing a plan for adjustment of debt under federal bankruptcy law;
- v. entering a private contract with a Director; or
- vi. not making a scheduled bond payment.

C. Attendance

Directors must attend Board meetings. A Director who fails to attend three consecutive regular meetings is automatically disqualified to serve as a Director, unless Board approval of such absence is entered in the minutes, or the absence is excused by mental or physical disability or illness. Director absences must be identified in the official meeting minutes, and the minutes must reflect whether the absence was excused.

D. Minutes

The Secretary of the Board must keep accurate minutes of all Board meetings. Copies of the minutes must be kept in a suitable binder, or in a visual text format that may be transmitted electronically, and must be open to public inspection upon request.

E. Executive Sessions

An executive or "closed" session of the Board may be called at a regular or special meeting of the Board by an affirmative vote of *two-thirds* of the quorum present. The public is not permitted in an executive session. In order to maintain the confidentiality of the executive session, only those individuals necessary for the topic(s) being discussed during the executive session should be permitted to attend the executive session.

Before going into an executive session, the Chairperson of the Board must announce, and the minutes reflect, the specific citation(s) to the portion(s) of the open meetings law that allows the Board to meet in an executive session:

- (1) C.R.S. § 24-6-402(4)(a), "Discuss the purchase, acquisition, lease, transfer or sale of any property interest";
- (2) C.R.S. § 24-6-402(4)(b), "Receive advice of Legal Counsel (specific legal question) ";
- (3) C.R.S. § 24-6-402(4)(c), "Discuss a matter required to be kept confidential by the following State or Federal law, rule or regulation: (must cite specific statute or rule) ";
- (4) C.R.S. § 24-6-402(4)(d), "Discuss specialized details of security arrangements or investigations";
- (5) C.R.S. § 24-6-402(4)(e), "Determine the District's position on matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators";
- (6) C.R.S. §24-6-402(4)(f), "Discuss personnel matters":
 - (a) Exception: If the employee who is the subject of the executive session has requested an open meeting (if the personnel matter involves more than one employee, all of the employees must request an open meeting);

- (b) Exception: Personnel matters do not include discussions concerning Board members;
- (c) Exception: Personnel matters do not include general personnel policies such as Rules and Regulations, SOP's, etc.
- (7) C.R.S. § 24-6-402(4)(g), "Consider documents protected by the mandatory nondisclosure provisions of the 'Public Records Act'"; and,
- (8) C.R.S. § 24-6-402(4), "Review, Approve or Amend the Minutes of an Executive Session."

The Board may not take formal action while in executive session. The discussion in an executive session must be limited to the reason(s) for which the executive session was called. All discussions in executive session must be held in strict confidence by every individual attending the executive session, and cannot be disclosed to any third person or entity without the affirmative vote of a majority of the Board members, or as required by law.

Each executive session must be electronically recorded, unless the District's legal counsel states on the record that an executive session, or a portion of the executive session, constitutes an attorney-client communication, in which case the portion of the executive session constituting an attorney-client communication shall not be recorded. It is the Board's policy and direction that the electronic recording of an executive session shall be destroyed on the 91st day after the executive session, unless an affirmative majority vote of the Board directs otherwise.

F. Resolutions and Motions

Official Board action may be taken through the adoption of a resolution, or a motion duly made and passed by a majority vote of a quorum of the Board. Except where a resolution is specifically required by a statute, ordinance or other law, a Board motion has the same legal effect as a resolution.

CHAPTER V ELECTIONS

Both the Special District Act and the Uniform Election Code of 1992, C.R.S. § 1-1-101, *et. seq.*, ("Election Code"), apply to a District election. The provisions of the Special District Act and the Election Code are very detailed. In addition, the Election Code is amended frequently. As a result, a comprehensive discussion of the election provisions contained in the Election Code and the Special District Act is beyond the scope and purpose of this Manual. This Manual provides a general overview of the types of elections that may be conducted, when the District may or must hold elections, and the general statutory framework for conducting an election. The requirements and issues relating to a specific election being considered by the Board should be discussed with the District's legal counsel.

A. Board's General Authority to Conduct Elections

Except where the Board has contracted with the Clerk and Recorder to perform all or part of the required duties in conducting an election, the Board shall govern the conduct of all special and regular elections, and render all interpretations and make all decisions as to controversies or other matters arising in the conduct of the elections. All powers and authority to conduct regular and special elections may be exercised in the absence of the Board by the designated election official, or if none, by the Secretary. All elections must be conducted in accordance with the Election Code and the Election Rules promulgated by the Colorado Secretary of State.

B. Ballot Issues and Ballot Questions

The term "Ballot Issue" refers to an issue presented to the voters that comes within Article X, Section 20 of the Colorado Constitution, commonly known as "Amendment 1" or "TABOR," including requests to increase the District's mill levy, issue bonds or undertake other forms of indebtedness, or remove the revenue and spending limits imposed by TABOR. The term "Ballot Question" refers to a question presented to the voters that does not come within TABOR, such as whether to remove Director term limits, and filling Director vacancies.

C. Conduct of Elections

Elections may be conducted by polling place, independent mail ballot, or, for November elections only, as coordinated elections; except that Ballot Issue elections may not be conducted by polling place. For all coordinated elections, the County Clerk and Recorder shall be the coordinated election official. At least 100 days prior to the scheduled coordinated election, the District shall take formal action to participate in the coordinated election and shall notify the County Clerk and Recorder of the action in writing. The District will thereafter enter into an Intergovernmental Agreement with the County Clerk and Recorder for the conduct of the election. Whenever the date of a District election is identical to the date set for another special district election in a special district having boundaries coterminous with the District, the election may be held jointly with the other special district. An election held jointly is not a coordinated election.

The Board shall appoint a designated election official to conduct non-coordinated elections and to assist in the conduct of coordinated elections. The designated election official shall not be a Board member in any election in which the Board member is a candidate.

D. Regular Elections

The District must hold regular elections on the first Tuesday after the first Monday in May in even numbered years for the purpose of electing Directors to the Board and for the submission of other Ballot Issues or Ballot Questions. If, by the close of business on the sixty-third day before the election there is no Ballot Issue or Ballot Question to be presented to the voters, and no Director position to be filled, or if there are only enough candidates to fill the vacant Director positions, the District may cancel the election.

E. Special Elections

Special elections can be held on the first Tuesday after the first Monday of February, May, October or December, except that special elections for the submission of Ballot Issues (i.e., tax increase, bonds, etc.) can be held only on the date of a State general election, or on the first Tuesday in November of odd-numbered years. Under circumstances of impossibility or impracticability, a court may order a special election to be conducted on a different election date.

F. Persons Entitled to Vote at Special District Elections

No person shall be permitted to vote in an election unless that person is an Eligible Elector as defined in C.R.S. § 32-1-103(5)(a), as may be amended from time to time. "***Eligible Elector***" means a person who, at the designated time or event, is registered to vote pursuant to the Uniform Election Code of 1992, **AND:**

- a. Who is a resident of the District; OR:
- b. Who, or whose spouse or civil union partner, owns taxable real or personal property within the District's boundaries, regardless whether that person resides within the District or not.
 - i. Ownership of a mobile home (C.R.S. § 38-12-201.5(2) or § 5-1-301(29)), or a manufactured home (C.R.S. § 42-1-102(106)(b)) constitutes ownership of real property;
 - ii. A person who is obligated to pay taxes under a contract to purchase taxable property within the District's boundaries is a property owner.

G. Election and Recall of Directors

Directors shall be elected by the District's eligible electors at regular special district elections held on the first Tuesday following the first Monday in May in every even-numbered year, and may be elected at any special District election. Any Director elected to the Board who has held office for at least six months during his/her current term may be recalled from office by the District's eligible electors. A petition demanding the recall of any Director named in the petition and signed by the lesser of 300 eligible electors or 40% of the eligible electors shall be filed in the District Court for Jefferson County. Any recall shall be governed by the provisions of Part 5 of Article 4 of Title 31, C.R.S.; except that, in the event of any conflict between the provisions of Part 5 of Article 4 of Title 31, C.R.S., and Part 9 of the Special District Act, Part 9 of the Special District Act controls.

H. Cancellation of Election

If the only matter before the electors is the election of Directors, and if at the close of business on the 63rd day prior to the election or at any time thereafter, there are not more candidates than

offices to be filled, including candidates filing affidavits of intent, the election can be cancelled by the designated election official if so instructed by resolution of the Board.

If the only matter before the electors is the consideration of a Ballot Issue and/or a Ballot Question, the Board may withdraw the Ballot Issue and/or Ballot Question and cancel the election no later than 25 days prior to a coordinated November election or at any time prior to any other election.

No election may be cancelled in part.

I. Election Deadlines

The individual appointed by the Board to serve as the Designated Election Official will be responsible for complying with all of the constitutional and statutory deadlines relating to the election, which are too numerous and detailed to incorporate herein. In general, information related to the deadlines is available from the Colorado Department of Local Affairs, Division of Local Government. If the District is conducting a coordinated election and has entered into an Intergovernmental Agreement with another governmental entity governing the conduct of the coordinate election, the District may have additional deadlines and filing requirements beyond those outlined by state law.

J. Fair Campaign Practices Act Limitations

The Fair Campaign Practices Act, C.R.S. §1-45-101, et seq. (the "Act"), imposes certain limitations on District Directors, officers and employees with respect to campaign lobbying and contributions.

The Act prohibits the District, and its Directors, officers and employees, from making any contribution to a campaign involving the nomination, retention or election of any person to public office. The Act prohibits the District, and its Directors, officers and employees, from using public moneys received from any source for the purpose of urging electors to vote for or against any State-wide or local ballot issue or referred measure.

The Act does permit the following limited actions:

- (1) A Board member or District employee may respond to questions regarding a candidate or ballot issue as long as the question was unsolicited;
- (2) A Board member or employee who has policy-making responsibilities may expend not more than fifty dollars (\$50.00) of public moneys in the form of letters, telephone calls, or other activities incidental to expressing his or her opinion on any candidate or ballot issue;
- (3) The District may expend public moneys to present a written factual summary containing a summary of the arguments for and against any proposal of official concern before the electorate in the District's jurisdiction. The summary cannot

contain conclusions or opinions in favor of or against any particular ballot issue. It must simply and fairly summarize the issues for and against;

- (4) An elected official is permitted to express a personal opinion on any issue regardless of whether his or her opinion was solicited. When expressing a personal opinion the elected official must make it clear that the opinion is a personal opinion, not the opinion of the governmental entity, and he or she must not identify himself or herself in a way that would create confusion with respect to whether the opinion is personal or that of the governmental entity to which the elected official was elected;
- (5) On the other hand, the District Board may, by majority vote, pass a resolution or take a position of advocacy on any candidate, State-wide or local ballot issue, or referred measure, and the District may report the passage of such resolution through established, customary means, other than paid advertising; and,
- (6) District Board members, officers and employees may also expend personal funds, make contributions and use personal time to urge electors to vote for or against any candidate, State-wide or local ballot issue, or referred measure; however, such activity must be performed only during personal time and cannot be done on behalf of or through the District.

CHAPTER VI SERVICE PLAN

A. Following Service Plan

The District must follow, to the extent possible, its adopted Service Plan. Because the District was formed before a Service Plan was required by State law, it has filed a Statement of Purpose in accordance with State law, which constitutes its Service Plan. Notice of a proposed District activity, published one time in a newspaper of general circulation, restricts certain injunctive actions which may be brought against the District for material departures from the Service Plan, unless such action is brought within 45 days after publication of such notice.

B. Amendment and Modification

The Service Plan may be amended to reflect changed circumstances or conditions of the District. A "material modification" to the Service Plan must be approved by the Board of County Commissioners. A "material modification," includes but is not limited to:

- (1) any addition to the types of services provided;
- (2) a decrease in the level of services;
- (3) a decrease in the financial ability of the District to discharge indebtedness;
- (4) a decrease in the need for organized service in the area; or
- (5) an inclusion of property into a new county or city, if so determined by the Board of County Commissioners.

CHAPTER VII FINANCIAL MATTERS

A. Fees and Charges

Unlike other types of special districts, a Fire Protection District may only impose fees or charges within its jurisdiction for:

- (1) Ambulance or emergency medical services and extrication, rescue, or safety services provided in furtherance of ambulance or emergency medical services. "*Extrication, rescue, or safety services*" includes but is not limited to any: (a) services provided prior to the arrival of an ambulance; (b) rescue or extrication of trapped or injured parties; and (c) lane safety or blocking provided by District equipment; and,
- (2) Requested or mandated inspections.

In addition, the District may impose fees, rates, tolls, penalties, or charges for services or facilities furnished outside its boundaries.

With the prior approval of the City of Arvada or Jefferson County, as applicable, the District may impose an impact fee on new development with the District's jurisdiction.

B. The Annual Budget, Mill Levy and Revenue and Spending Limitations

In November 2002, the District's voters approved a Ballot Issue that removed the revenue and spending limits imposed by TABOR and State statute. As a result, the District may keep and spend all revenue generated by its mill levy and other sources. The Board must fix a rate of levy of taxes ("mill levy"), and certify that mill levy to Jefferson County no later than December 15 of each year.

The District must adopt an annual budget before certifying its mill levy each year. The Fire Chief is responsible for preparing the proposed budget. The Fire Chief must prepare and submit the proposed budget to the Board on or before October 15 of each year. The Jefferson County Assessor must certify the assessed valuation of real and personal property within the District by August 25 of each year. By December 10 of each year, the assessor must provide the District with any change in the assessed valuations provided by the assessor in August of that year. Upon receipt of the proposed budget, the Board must hold a public meeting to consider the proposed budget.

C. Appropriations

The District's expenditures must be made in accordance with the District's annual appropriation of funds, as set forth in its approved budget. Any action or expenditure made beyond the appropriated sum is invalid and void.

The amount of appropriated funds may be supplemented or adjusted during the year, through a Supplemental Budget. The same public hearing process required for the annual budget must be conducted before the Board adopts a Supplemental Budget.

CHAPTER VIII AUDITS

The Board is required to have the District's financial statements audited annually. The audit must be made as of the end of each fiscal calendar year, or more frequently if some special reason exists. The audit report must be completed and submitted to the Board by June 30, and filed with the State Auditor not later than July 31.

CHAPTER IX LIABILITY

A. Federal and State Tort Claims

"Torts" are wrongful actions that cause harm to an individual, entity, or property. There is an extensive body of Federal law covering a wide-array of "torts." In general, the Colorado Governmental Immunity Act does not protect the District and its directors, officers, employees and volunteers from Federal tort claims. Some examples of Federal tort claims are discrimination claims, deprivation of constitutional or statutory rights (*i.e.*, "Section 1983" cases), antitrust, securities violations, labor and wage actions, and environmental cases.

With certain narrow exceptions, the Governmental Immunity Act bars all State tort claims against the District, and its directors, officers, employees and volunteers. For those tort claims where liability may be imposed, the liability is limited to \$350,000 per person, and \$990,000 per occurrence. The Governmental Immunity Act may require the District to indemnify its directors, officers and employees, under certain circumstances.

B. Contract Claims and Criminal Acts

Contract claims are not barred by the Governmental Immunity Act. Public officials, however, are generally not personally liable for the contracts of the governmental entity. The Governmental Immunity Act offers no protection from criminal actions. Common potential areas of criminal exposure include:

- (1) entering into a prohibited transaction;

- (2) failing to disclose conflicts of interest;
- (3) misuse of official information;
- (4) malfeasance; or
- (5) issuing a false certificate or document.

CHAPTER X PUBLIC RECORDS AND HIPAA LIMITATIONS

As a political subdivision of the State, the District must comply with the Colorado Public (Open) Records Act, C.R.S. §24-72-101, et seq. (the "Open Records Act"). The Open Records Act requires the District to make available for inspection and copying all public records within its possessions, custody and control. The provisions relating to the inspection and copying of public records are very detailed, and in some instances complex, and are beyond the scope and purpose of this manual.

The District's obligations under the Open Records Act are further complicated by the obligations and limitations imposed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Privacy Rule and other regulations promulgated, or which will be promulgated, by the US Department of Health and Human Services. The District must comply with the requirements of HIPAA for protecting confidential health information that it generates or receives.

HIPAA and the Privacy Rule also impact the District in another way. Although employers are not covered by HIPAA and the Privacy Rule, the District's health plan is covered by HIPAA and the Privacy Rule. Detailed privacy regulations apply to the District's health plan, and extend to the District to the extent it transmits or receives protected health information in connection with the Plan.

The District's legal counsel works closely with Chief Staff to respond to requests for documents and information to insure the District complies with the Open Record Act, and, if applicable, HIPAA, the Privacy Rule or other regulations.

CHAPTER XI CONTRACTS

A. Construction Contracts

1. Publication and Bid Requirements

The Special District Act requires the District to publish notice of bids for "...all construction contracts for work or materials or both involving an expense of \$60,000 or more of public moneys." C.R.S. §32-1-1001(1)(d). The District may reject any and all bids, and if it appears that the District can perform the work or secure material for less than the lowest bid, it may do

so. It is entirely appropriate for a District Board to approve a contract without soliciting bids where the contract does not involve a construction project estimated to exceed \$60,000.

2. Bonds and Retainage

The District is not required by State law to require the contractor to provide a bid bond; however, a bid bond protects the District from a contractor withdrawing a low bid. Thus, a bid bond in the amount of five percent of the amount bid is often recommended, depending upon the circumstances. The cost of the bid bond is usually passed back to the District through the costs set forth in the bid.

State law requires every contractor awarded a public contract for more than \$50,000 to execute an adequate labor and materials bond, as well as a performance bond in the amount of at least one-half of the contract amount. State law also requires public construction contracts over \$150,000 to contain certain statutory provisions, which require a five percent retainage. The retainage must be held until the following final settlement payment procedures are completed.

- (a) Upon completion of the project – usually identified by receipt of a Certificate Of Completion from the engineer or architect – a notice of final settlement payment must be published twice. This notice announces that final settlement payment will be made to the contractor on a designated settlement date, which is more than ten days after the second publication. If no claims are made, payment in full to the contractor may be made on the settlement date; or
- (b) If a claim is properly made by a subcontractor or supplier, then the District must withhold sufficient funds to ensure satisfaction of that claim until the claim is withdrawn, paid, or 90 days have passed. If within 90 days, the claimant has not filed a lawsuit, then the retainage must be remitted to the contractor. If a lawsuit is commenced, the District may be able to deposit the money with the Court to avoid becoming embroiled in the litigation.

3. Appropriations Clause

The District may not contract for a public works project in an amount in excess of the amount "appropriated" by the District for the project. All construction contracts must contain provisions stating money has been appropriated, and that any change order increase must be accompanied by a further written assurance that appropriations are sufficient. Except as specifically limited by State statute, all contracts are subject to budget and appropriations by the Board.

B. Other Contracts

Except for the construction contracts discussed above, the District is not required to conduct a bidding or publication process for any contracts, including but not limited to contracts for the purchase of vehicles, equipment, non-construction materials, real and other personal property, leases, advisory and professional services.

C. Public Services Contracts

In 2006, the Colorado legislature enacted C.R.S. § 8-17.5–101, *et seq.*, which prohibits the District from entering into services contracts with any person or entity employing illegal aliens. This statute requires all services contracts to contain certain provisions intended to ensure those providing services to the District do not employ illegal aliens. Accordingly, all services contracts with the District must contain the language required by C.R.S. § 8-17.5–101.

CHAPTER XII BOUNDARY ISSUES

The Special District Act contains detailed, and at times confusing and inconsistent, provisions regarding the inclusion or exclusion of real property into the District. A comprehensive review of these provisions is beyond the scope and purpose of this Manual.

In general, there are four procedures by which property can be included into the District:

- (1) The fee owner(s) of 100% of any real property capable of being served by the District may file a petition for inclusion of that property with the Board; or,
- (2) A petition filed by the lesser of 20% or two hundred of the taxpaying electors within the affected area; or,
- (3) The Board of Directors adopting a resolution proposing the inclusion of the affected area; however, no single tract or parcel constituting more than 50% of the total area to be included may be included without the consent of the owner of that parcel; or,
- (4) A "district-to-district" transfer of real property from a fire protection district to the District.

Property may be excluded from the District by any one of the following procedures:

- (1) The fee owner(s) of 100% of the real property petition the District for exclusion of the Property; or,
- (2) A municipality may, under certain circumstances, exclude territory from the District; or,
- (3) A "district-to-district" transfer of real property from the District to another fire protection district.

CHAPTER XIII TABOR

A. Introduction

As previously stated, the voters approved a Ballot Issue in November 2002 that removed the revenue and spending limits imposed on the District by TABOR and State statute; however, other TABOR requirements still apply to the District.

B. Financial Limitations

Under TABOR, the District is required to obtain voter approval to increase its mill levy above the current mill levy, except in certain instances for debt service on general obligation bonds, pension payments and final court judgments. TABOR also requires advance voter approval to create new District debt or financial obligations that extend beyond the current fiscal year, including general obligation and revenue bonds.

Voter approval is not required for refinancing debt at a lower interest rate, obligations with adequate present cash reserves pledged irrevocably and held for payments in future fiscal years, and qualifying lease/purchase agreements.

TABOR prohibits incurring multiple fiscal year financial obligations without voter approval. All multi-year contracts requiring the expenditure of District funds require voter approval unless adequate cash reserves exist to finance the obligation. The Colorado Courts have determined that a properly structured lease/purchase agreement does not require voter approval or adequate cash reserves.

CHAPTER XIV PERSONNEL/CONFIDENTIAL MATTERS AND RECORDS

A. Limited Board Involvement in Personnel Matters

Consistent with its statutory authority to govern the District's affairs, the Board establishes the rules, policies and procedures relating to the District's employee and volunteers. The Board has delegated to the Fire Chief, and charged the Fire Chief with, the responsibility for implementing the personnel rules, policies and procedures established by the Board, and handling, directly or through the supervision of subordinate supervisors and managers, the day-to-day administration of the District's volunteers and employees, including hiring and appointing, job/position performance evaluation, corrective/disciplinary actions, and all other aspects of the employee/volunteer relationship with the District. The Fire Chief is authorized to adopt Standard Operating Procedures as necessary to implement the rules, policies and procedures established by the Board.

Except with respect to supervision of the Fire Chief, (discussed below), and except for the circumstances expressly identified in the District's Member Handbook, the Board does not become involved in personnel matters.

The Board is responsible for supervising the Fire Chief, including hiring the Fire Chief, evaluating the Fire Chief's job performance, determining the Fire Chief's compensation and benefits and other terms and conditions of employment, and imposing corrective/disciplinary actions against the Fire Chief.

B. Board Member Access to the Personnel/Confidential Files of District Members or Patients

A Director's position as a Board member does not, in itself, entitle the Director to access a District member's personnel or confidential files; except that, as the immediate supervisors of the Fire Chief, Board members are authorized to inspect the Fire Chief's personnel and confidential files. C.R.S. §24-72-204(3)(a)(II)(A). In addition, Board members may be entitled to inspect other District member files to the extent necessary to satisfactorily supervise the Fire Chief.

With respect to protected health information ("PHI") of District members, or individuals or District members to whom the District provides medical services, Board members are permitted to receive PHI to the minimum extent necessary to govern the health care operations of the District, including: conducting quality assessment/improvement activities, population-based activities relating to improving health or reducing health care costs, and case management/care coordination; reviewing the competence/qualifications of its medical care personnel, evaluating provider and health plan performance, training health care and non-health care professionals, accreditation, certification, licensing, or credentialing activities; conducting/arranging for medical review, legal, and auditing services, including fraud and abuse detection and compliance programs; business planning/development, such as conducting cost-management and planning analyses related to managing/operating the District; and business management and general administrative activities, including those related to implementing/complying with the HIPAA Privacy Rule and other Administrative Simplification Rules, customer service, resolution of internal grievances, sale or transfer of assets, creating de-identified health information or a limited data set, and fundraising for the benefit of the District. See, generally, 45 CFR 164.501

Even where the Board receives PHI as part of the District's health care operations, HIPAA and the Privacy Rule restrict what information the Board can receive. The U.S Department of Health and Human Services, which regulates HIPAA and the Privacy Rule, amends its regulations frequently. As a result, a comprehensive discussion of the restrictions placed on disclosures of PHI is beyond the scope and purpose of this Manual. The requirements and issues relating to specific disclosures of PHI to the Board should be discussed with Fire Chief and the District's legal counsel at the time any such issues arise.

To the extent practicable under the specific circumstances of a matter, the Fire Chief will use the following disclosure protocols:

(1) In executive session, the Fire Chief will inform Board members of the basic facts and circumstances surrounding an emergency incident or a personal matter involving PHI or other confidential information to the extent necessary for the Board to evaluate whether the incident/matter may impact the District's health care operations or other business activities. The Fire Chief, with the assistance of legal counsel, will advise the Board of any restrictions HIPAA and the Privacy Rule place on the disclosure of PHI to the Board.

(2) On no less than a monthly basis, the Fire Chief shall, in executive session, provide updates on the status of the incident/matter until it has been resolved.

(3) The Fire Chief shall disclose additional PHI or other confidential information as necessary for the Board to evaluate whether the incident/matter may impact the District's health care operations or other business activities, as the incident/matter develops.