

LOUISVILLE FIRE PROTECTION DISTRICT



BOARD MEMBER MANUAL FEBRUARY 1, 2006

TABLE OF CONTENTS

CHAPTER I: INTRODUCTION	3
CHAPTER II: BOARD POWER AND AUTHORITY	3
A. Statutory Power and Authority	3
B. No Authority For Individual Board Members	6
CHAPTER III: BOARD MEMBERSHIP	6
A. Qualifications-Definition of Eligible Elector	6
B. Director Oaths and Bonds	7
C. Director Vacancies	7
D. Term Limits	7
E. Mandatory Filings	8
F. Fiduciary Obligations	9
G. Compensation	9
H. Gifts	9
I. Bylaws, Rules & Regulations, and Policies	9
J. Director Recall	10
CHAPTER IV: BOARD MEETINGS	10
A. Calling the Meeting	10
1. Three-day (72-hour) Notice	10
B. Open to the Public	11
C. Rules of Procedure	11
D. Voting	11
E. Attendance	11
F. Minutes	11
G. Executive Sessions	12
H. Resolutions and Motions	13
CHAPTER V: CONFLICT OF INTEREST	13
A. Disclosure Required	13
B. Acts Constituting a Conflict of Interest	14
C. Guides to Ethical Conduct	15
D. Effect of Existence of Potential Conflict of Interest	15
CHAPTER VI: ELECTIONS	15
A. Ballot Issues and Ballot Questions	16
B. Coordinated Elections	16
C. Regular Elections	16
D. Special Elections	17
E. Mail Ballot Elections	17
F. Designed and Coordinated Election Officials	17
G. Cancellation of Election	17
H. Election Calendar	17
I. Fair Campaign Practices Act Limitations	19
CHAPTER VII: FINANCIAL MATTERS	21
A. Fees and Charges	21

B. The Annual Budget, Mill Levy and Revenue and Spending Limitations	21
C. Appropriations	21
CHAPTER VIII: AUDITS	22
CHAPTER IX: LIABILITY	22
A. Federal and State Tort Claims	22
B. Contract Claims and Criminal Acts	22
CHAPTER X: PUBLIC RECORDS AND HIPAA LIMITATIONS	23
CHAPTER XII: CONTRACTS	23
A. Construction Contracts	23
B. Other Contracts	24
CHAPTER XIII: BOUNDARY ISSUES	25
CHAPTER XIV: TABOR	26
A. Introduction	26
B. Financial Limitations	26

CHAPTER I INTRODUCTION

Welcome to the Board of Directors of the Louisville Fire Protection District. Serving as a Board member of this dynamic, progressive and high quality Fire Protection District will be challenging and exciting. The Fire District was formed in 1978 by a recommendation from the city manager. Today the fire fighting force consists of 6 paid (career) personnel and approximately 50 volunteer firefighters to cover an area of 17 square miles with a population of approximately 23,000 people. The Fire District today operates units out of two stations.

The Fire District's service area presents a unique fire fighting challenge. Contained within the Fire District's boundaries is a wide mix of residential, industrial light manufacturing, and commercial use companies.

Services provided by the Fire District include fire prevention and investigations, fire suppression, hazardous materials response, rescue services, and emergency medical response.

The Fire District is governed by a five member Board of Directors and administered by a Fire Chief. The Fire District's volunteer and career force provides a dedicated and efficient firefighting group for District Citizens. The Fire District is continually upgrading firefighting training and delivery of its emergency services to the citizens within its jurisdiction.

CHAPTER II BOARD POWER AND AUTHORITY

A. Statutory Power and Authority

The Special District Act sets forth the specific power and authority of the District. The District, has the following authority and powers acting through the Board of Directors:

- (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 purchases 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 \$25,000 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.

- (5) After an election, and with the consent of the majority of the voters voting in such election to borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, and to issue bonds, including revenue bonds.
- (6) To invest any moneys of the District in accordance with Part 6 of Article 75 of Title 24, C.R.S.;
- (7) To acquire, dispose of, and encumber real and personal property including without limitation, rights and interests in property, leases, and easements necessary for the District's use in accordance with any governmental ordinance, regulation, or law;
- (8) To refund any bonded indebtedness as provided in Part 13 of Article 32, or Article 54 or 56 of Title 11 C.R.S.;
- (9) To manage, control and supervise all of the business and affairs of the District as defined in the Special District Act directly 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;
- (10) To appoint, hire, and retain agents, employees, engineers, accountants, advisors, consultants and attorneys;
- (11) To furnish services and facilities throughout the boundaries of the District and to establish fees, rates, tolls, penalties, or charges for such services and facilities as allowed by law;
- (12) 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;

- (13) To adopt, amend and enforce member requirements, standard operating procedures and rules and regulations not in conflict with the constitution and laws of the State of Colorado for carrying out on the business, objects, and affairs of the Board and the District;
- (14) To have and exercise the power of eminent domain and dominant 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 with 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 service, a hazardous materials 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.
- (17) 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;
- (18) To create and maintain one or more volunteer firefighters' pension fund(s), under the provisions of Part 2 and 4 of Article 30.5, 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.; and,
- (19) 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,
- (20) To fix and from time to time increase or decrease fees and charges Within its jurisdiction as follows:
 - A) Ambulance or emergency medical services; and,
 - B) Requested or mandated inspections, including plan reviews;

- C) Hazardous incident responses: and,
- D) Services provided outside the jurisdiction of the District to the Extent allowed by law.

- (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 to take action. Individual Board members shall not give directions to the Fire Chief or other District employees 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, communication between the Board and individual Board members, and Chief or Staff shall be directed to the Fire Chief, unless otherwise determined by a majority vote of the Board members.

**CHAPTER III
BOARD MEMBERSHIP**

A. Qualifications – Definition of “Eligible Elector”

To qualify as a Director of the Louisville Fire Protection District (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:

- (1) A resident of the District for not less than 30 days; or
- (2) The owner, or the spouse of the owner, of taxable real or personal property located in the District; or
- (3) A person obligated to pay taxes under a contract to purchase taxable property.

Director qualifications must be met at the time of signing the self-nomination affidavit (or at the time of appointment by the District Board of Directors, 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. No Director may receive compensation as an employee or independent contractor of the District.

B. 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 chairman, a notary public, or any other person authorized by law in Colorado to administer oaths, and filed with the Clerk and Recorder for Boulder County, and the Division of Local Government.

Each Director must also file an individual schedule or blanket surety bond of not less than \$1,000, with the Clerk of Boulder County District Court. If the Director also serves as the Board Treasurer, a corporate fidelity bond of at least \$5,000 must also be filed with the Boulder 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.

C. Director Vacancies

A Director position is deemed 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 by recall or voidance of election results by a court of competent jurisdiction. (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 are required to 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 Boulder County may make the appointment. An individual appointed to fill a vacancy serves as a Director until the next regular election, at which time the vacancy is filled by election.

D. Term Limits

In May 2000 the voters removed the limits the Colorado Constitution imposed on the number of consecutive terms of office a Director may serve. As a result, a District Director may continue to such re-election at the end of each term of office.

E. Mandatory Filings

Directors are responsible for assuring that mandatory filings are made and actions are taken. The following schedule includes 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.	January 1
Name of Chairman of the Board, the contact person, telephone number and business address of the District 32-1-104, C.R.S.	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.	January 15
Resolution designating where the District's agenda notice posting place shall be 24-6-402(2), C.R.S.	None	First meeting of the Board of Directors of each year.
Post Notices of Regular meetings 32-1-903(2), C.R.S.	County Clerk and Recorder, and three public locations within the District boundaries.	Three places in District on the first business day of the month. No meetings on Sundays or holidays. Once at the beginning of each year with the County Clerk and Recorder.
Special meetings 32-1-903(2), C.R.S.	County Clerk and Recorder, and three public locations within District boundaries.	Not less than 72 hours prior to any special meeting.
Certified copy of adopted budget 29-1-113(1), C.R.S.	Division of Local Government	No later than January 30 (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	February 1
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
Audit Report 29-1-606,	State Auditor	30 days after report is received, but not later than August 31.
Certified of Election results	Division of Local Government. File with Division of Securities and Board of County Commissioners if debt authorization election.	Within 30 days after election day.
Certification of mill levy 39-5-128(1), C.R.S.	Board of County Commissioners	December 15

Resolution Appropriating Sums of Money 29-1-108(2), C.R.S.	None required, but recommend filing with Division of Local Government.	Adopt prior to Certification of mill levies (December 15), or prior to December 31 if not levying property taxes.
--	--	---

F. 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, which the electorate reposes in the integrity of public officers, local government officials, and employees. A public officer, local government official, or employee shall carry out his duties for the benefit of the people of the state. * * * A public officer, 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 the abuse of his trust.

C.R.S. 24-18-103(1) and (2).

This Fiduciary obligation extends 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 advantages of a situation to benefit him/herself or prejudice the District.

G. Compensation

As permitted by statute, District Directors receive \$75.00 per meeting, with an annual cap of \$1,200. 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.

H. Gifts

The LFPD Board has authorized the Fire Chief discretion over charitable donations as outlined above and no more than 100.00, unless approved by the Board. As a rule the District does not donate to non-profit or for profit organizations. (Except for those directly or indirectly tied to the fire service.)

I. Bylaws, Rules & Regulations, and Policies

The Board may, but is not required to, adopt bylaws to govern certain aspects of Board membership. The Louisville Fire Protection Board has not adopted Bylaws.

The Board is authorized to adopt, and has adopted, a Member Manual that sets forth the Board’s policies with respect to the administration, operation and management of the

District. In the Member Manual, the Board has authorized the Fire Chief to implement the polices established by the Board through Standard Operating Procedures (SOP's), and the Fire Department Policy Manual.

J. Director Recall

Any Director who has held office for at least six (6) months during his or her current term may be recalled from office by the District's eligible electors. A petition signed by the lesser of 300 or 40% of the eligible electors demanding the recall of the Director must be filed in the Boulder County District Court. The election of a successor will be held at the same time as the recall election. The recall election will be conducted in accordance with the Colorado Election Code.

**CHAPTER IV
BOARD MEETINGS**

A. Calling the Meeting

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, and designating at least three public places within the District where notice of meetings will be posted, in addition to posting notice at the office of the clerk and recorder of each county within the District.

Notice to Directors:

All Directors must be notified of any regular or special meeting of the Board.

Notice to public:

1. Three-day (72-hour) Notice of Special Meetings

Notice of the time and place of any meeting must be posted in at least three public places within the District and in the office of the Boulder County Clerk and Recorder, 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:

- A. A final determination to 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. Not making a scheduled bond payment.

B. Open to the Public

Under the Colorado Sunshine Law, all meetings of three or more Board Members held for the purpose of discussing public business or taking a formal Board action must be open to the public, and proper notice of the meeting provided. 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, recent Court decisions have called this traditional thinking into question, and the District's legal counsel is recommending that anytime three or more Board members may meet – even while attending another Board's meeting – it should be considered a public meeting and properly noticed. The Colorado Sunshine Law requirements apply to Board study sessions. 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 sessions, special meetings or otherwise –are open to the public, including reporters, attorneys and any other representatives.

C. Rules of Procedure

To the extent practicable, the District uses the latest edition of *Robert's Rules of Order* as a procedural guide for conducting meetings.

D. Voting

A simple majority, or “quorum,” of the Board is necessary before the District may commence a meeting and take any official act or vote. The District has a five (5) member Board. Three (3) members constitute a quorum. Proxy voting is not permitted.

E. 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 approval of 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 must state whether the absence was excused.

F. 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 and must be open to public inspection upon request.

G. Executive Sessions

An executive or “closed” session of the Board may only be called at a regular or special meeting of the Board, not at a study session, by an affirmative vote by the majority 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 who are necessary for the topic(s) being discussed during the executive session should be permitted to attend the executive session.

Executive sessions should be noted on the agenda for all meetings whenever possible. 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 meeting 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. 24-6-204(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.”

No Board action may be taken while in executive session. The Board must prepare minutes of an executive session in the same manner as it prepares minutes of the open portion of the meeting, except that if the District’s legal counsel states on the record that the executive session, or a portion of the executive session, constitutes an attorney-client communication, the portion of the executive session constituting an attorney-client communication is not recorded. The minutes must contain a signed statement by the District’s legal counsel that the portion of the executive session not recorded constituted a privileged attorney-client communication in the opinion of the District’s legal counsel. The minutes must also contain a signed statement by the chair of the executive session that the portion of the executive session not recorded was confined to the topic(s) authorized for discussion in executive session.

The approved minutes of an executive session must be maintained for 90 days. The District should have in place a procedure for the immediate destruction of the minutes of executive session after the 90-day period.

All discussions in executive session must be held in strict confidence by every individual attending the executive session, and may not be disclosed to any third person except as required by law.

H 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 CONFLICT OF INTEREST

A. Disclosure Required

Colorado law requires a Director to disqualify himself/herself from voting on any issue in which he/she has a conflict of interest, unless the Director has first disclosed the conflict of interest to the Board and the Secretary of State. In addition, the Special District Act prohibits a Director receiving workers’ compensation benefits awarded in the line of duty as a volunteer firefighter or pension payments to retired firefighters to vote on issues involving their own disability or pension payments, but does not preclude Directors from voting on pension issues in general such as the establishment of pension benefit amounts for retired firefighters.

The Special District Act also requires a Director who owns at least 20% of the undeveloped land within the District to disclose this fact before each meeting. The

disclosure must be recorded in the minutes of each meeting. “Undeveloped land” means real property, which has not been subdivided or which has no improvements constructed upon it, excluding real property dedicated for park, recreation or open space purposes. A Director has failed to properly disclose a conflict of interest if he or she votes or exercises any substantial discretionary function in connection with a government contract, without having given 72 hours actual advance written notice to the Secretary of State and to the District Board. Legal counsel for the District will assist and filing the required notice upon request.

B. Acts Constituting a Conflict of Interest

A potential conflict of interest exists when a Director is an executive officer, or owns or controls, directly or indirectly, an interest in a private company that does business with the District.

District Board members, as local government officials (elected or appointed), or District employees, cannot:

- (1) Disclose or use confidential information acquired in the course of their official duties in order to further their personal financial interests.
- (2) Accept gifts of substantial value or of substantial economic benefit tantamount to a gift of substantial value, which would tend to improperly influence a “reasonable person” in his public position to depart from the faithful and impartial discharge of his/her public duties.
- (3) Engage in substantial financial transaction for his/her private business purposes with a person whom he/she inspects or supervises in the course of his/her official duties.
- (4) Perform an official act directly and substantially affecting, to its economic benefit, a business or other undertaking in which he/she either have a substantial financial interest or are engaged as counsel, consultant, representative or agent.
- (5) Have a direct or indirect personal interest in any contract made in his/her official capacity or by any body, agency, or board of which he/she are a member or employee.

The Following exceptions are not considered to be conflicts of interest:

- (1) A Director holding a minority interest in a corporation contracting with the District is not considered “interested” in such contract;
- (2) Contracts in which the Director has disclosed a personal interest and has not voted thereon; and

- (3) A Director may vote, notwithstanding any other prohibition, if participation is necessary to obtain a quorum or otherwise enable the Board to act, and if the Director complies with the voluntary disclosure procedures.

C. Guides to Ethical Conduct

The Colorado statutes (C.R.S. 24-18-101), set forth the following “guides” for Director, officer and public employee conduct:

- (1) A local government official or employee should not acquire or hold an interest in any business or undertaking, which he has any reason to believe, may be directly and substantially affected to its economic benefit by official action to be taken by the local government agency over which he has substantial authority.
- (2) A local government official or employee should not, within six (6) months following the termination of his office or employment, obtain employment in which he will take direct advantage, unavailable to other, of matters with which he was directly involved during his term of employment.
- (3) A local government official or employee should not perform any official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking.

D. Effect of Existence of Potential Conflict of Interest

Failing to disclose a potential conflict of interest is a class 2-misdemeanor. Any contract, vote or other official act in which a Director had a potential conflict, not cured by disclosure, may result in a violation of the act or the voiding of any contract.

CHAPTER VI ELECTIONS

Both the Special District Act and the Uniform 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 the conduct of 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. Ballot Issues and Ballot Questions

The term “Ballot Issues” refers to a 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 the election of Directors.

B. Coordinated Elections

All November elections must be conducted as coordinated elections, unless the special districts conduct the elections. November elections are conducted under the general direction of the Clerk and Recorder. Regular biennial director elections, special elections, and court ordered elections conducted other than in November may be conducted as coordinated elections, if there is an overlap of electors or boundaries, if the special districts and Boulder County agree.

At least 60 days prior to the scheduled coordinated election, the District must enter into an Intergovernmental Agreement with the Boulder County Clerk and Recorder for conducting the election. The Agreement must include at least the following information:

- (1) An allocation of responsibilities between the District and the County Clerk and Recorders; and
- (2) A provision for the sharing of expenses based upon “actual cost.”

C. 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 there is no Ballot Issue or Ballot Question to be presented to the voters, if there are no more candidates then positions to be filled, the District may cancel the election.

D. Special Elections

Special elections can be held on the first Tuesday after the first Monday of February, May, October or December, in November of even-numbered years, or on the first Tuesday in November of odd-numbered years. Under circumstances of impracticability, a court may order a special election to be conducted on a different election date.

E. Mail Ballot Elections

The District may conduct an election by mail ballot after first obtaining approval from the Secretary of State of a written plan on conducting a mail ballot election. The written plan must be filed with the Secretary of State at least 55 days prior to the election.

F. Designated and Coordinated Election Officials

For all coordinated elections, the Boulder County Clerk and Recorder is the coordinated election official responsible for complying with notice and other statutory requirements, unless an Intergovernmental Agreement specifies otherwise.

The District must appoint a designated election official to conduct non-coordinated elections and assist in the conduct of coordinated elections. The designated election official does not have to be the District Secretary.

G. 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 date of the election, there are no 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 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.

H. Election Calendar

DATE	SUMMARY
January 1 preceding the election	An application for an absentee voter ballot may be submitted.
66 days prior	File nomination petitions with designated election official.
64 days prior	File affidavit if intent to be a write in candidate.
63 days prior	Cancellation deadline for a regular election if there are no more candidates than positions to be filled, and there are no ballot issues or ballot questions

DATE	SUMMARY
60 days prior	Enter into Intergovernmental Agreement with

	County Clerks for coordinated election.
Prior to 55 days before election	Certify the ballot content to the County Clerk and Recorder.
55 days prior	Notify the Secretary of State of a mail ballot election is going to be proposed plan for conducting the mail ballot election.
45 days prior	Appoint Election Judges.
40 days prior	The designated election official shall order the voter registration and property owners lists. The Secretary of State shall approve or disapprove the written plan for the conduct of a mail ballot election.
Not more than five weeks nor less than one day prior to election day	Hold at least one class of instruction for all Election Judges.
30 days prior	The County Clerk and Recorder shall certify and deliver an initial voter registration list The county Assessor shall certify and deliver an initial list of all recorded owners of property within the District. The designated election official shall provide printed ballots. Deadline for acceptance of written comments for or against the TABOR ballot issues. Certify the list of Election judges and mail one acceptance form to each person appointed.
29 days prior	Deadline to register to vote.
25 days prior	Deliver to the County Clerk and Recorder TABOR notice information. Begin mailing to each registered elector the TABOR Notice. Begin mailing to each (eligible elector?) a mail ballot package. Mail ballots shall also be made available at the designated election official's office for eligible electors. Establish polling places (for other than coordinated elections).
20 days prior	The County Clerk and Recorder shall certify supplemental registration lists. The County Assessor shall certify supplemental property owners lists.
15 days prior	If appropriate, mail voter information card or letter to electors concerning the election polling place, and other information. If conducting a regular biennial election, District may publish notice in lieu of mailing. Appoint Board of Canvassers.
DATE	SUMMARY
15 days prior (continued)	Deadline for mailing TABOR notice.

	Deadline for mailing mail ballot packages.
12 days prior	Post notice of polling place.
10 days prior	Publish notice of election one time. Post a copy of the notice until 2 days after the election in a conspicuous place in the office of the designated election official. Mail a copy of the notice of the election to the County Clerk and Recorder of each county in which the District is located.
Friday proceeding the election	Deadline for filing application of absentee voter ballot.
1 day prior	Designated election official shall give Election Judge the registration records and all necessary election supplies, including ballots. Counting of the absentee ballots may begin and continue until counting is completed.
Election Day	Counting Judge may begin counting at 8:00 a.m. As soon as polls close, receiving Judges may proceed to count the ballots. Judge shall not adjourn until the counting is finished. The election Judges shall post the preliminary results of the election in a conspicuous place, which can be seen from the outside of the polling place immediately upon completion of the counting, and for at least 48 hours.
No later than 7 days after election	Board of Canvassers shall meet, survey the returns, and issue certified statements of results. File copy of election results with Division of Local Government.
45 days after	File copy of election results with Division of Local Government. If conducted a debt authorization election, file election results with Board of County Commissioners and Division of Securities.

I. 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 employee of the District 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 which contains 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 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 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,

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 or through the District or its facilities.

CHAPTER VII FINANCIAL MATTERS

A. Fees and Charges

A Fire Protection District may impose fees or charges within its jurisdiction for:

- (1) Ambulance or emergency medical services; 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.

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. Requested or mandated inspection services may be discontinued if the owner of the property subject to inspection is delinquent on the payment of applicable inspection fees and charges.

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

In May 1996 District 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 Boulder 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 county Assessor must provide a preliminary notice of assessed valuation of real and personal property within the District by August 25 of each year. By December 10 of each year, the County Assessor must provide the District with a final notice of assessed valuations. Upon receipt of the proposed budget, the Board must hold a public meeting to consider the proposed budget. For the next year which begins on January 1 of the year and ends on December 31 of the year (fiscal year)

C. Appropriations

The District’s expenditures must generally be made in accordance with the District’s annual appropriation of funds, as set forth in its approved budget.

The amount of appropriated funds may be supplemented or adjusted during the year, or at the yearend, 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 as of the end of each calendar year, or more frequently if some special reason exists. The audit report must be completed by June 30, and filed with the State Auditor not later than 30 days after the District receives the report.

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 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 and employees. For those tort claims where liability may be imposed, the liability is limited to \$150,000 per person, and \$600,000 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 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. As a result of the emergency medical services it provides, the District is a “covered entity” within the meaning of the Privacy Rule and HIPAA, and must comply with detailed requirements for protecting confidential health information that it generates or receives in the course of providing its emergency medical services.

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, to the extent that is covered 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 XII CONTRACTS

A. Construction Contracts

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 \$25,000 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. As discussed in subsection XI.B., below, 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 \$25,000.

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 recommended, depending upon the circumstances. The cost of the 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 \$80,000 to contain certain statutory retainage provisions, typically ten percent retainage until one-half of the contract is complete with no retainage thereafter, for a net of five percent at the end of the contract. The retainage must be held until the following final payment procedures are completed.

- (1) Upon completion of the project – usually identified by receipt of a Certificate of Completion from the engineer or architect – a notice of final payment must be published twice. This notice announces that final 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
- (2) 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.

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 clauses, which states that money has been appropriated by the District. 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 perform 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.

CHAPTER XIII

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 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% of 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 XIV TABOR

A. Introduction

As previously stated, the voters approved a Ballot Issue in May 1996, which removed the revenue and spending limits imposed by TABOR and other similar State statutes. However, other financial 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. Multi-year construction projects which are funded with the proceeds of a general obligation bond issue do not require separate voter approval simply because the voter approval bond issue proceeds will be expended over a period of time in excess of one fiscal or calendar year. Likewise, Colorado Courts have determined that a properly structured lease/purchase agreement does not require voter approval or adequate cash reserves.

Board President
Approval

Attorney Approval

