

CHAPTER 10 – ELECTION DAY MATTERS

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History Note: Authority G.S. 163-22; 163-140(c)(3); 163-160; 163-160.1;
Temporary Adoption Eff. May 1, 2000;
Temporary Adoption Expired on December 10, 2000;
Recodified from 08 NCAC 10 to 08 NCAC 10A Eff. April 15, 2002.

SUBCHAPTER 10B – VOTING, VOTING PLACES AND PRECINCT OFFICIALS' DUTIES AND TASKS

08 NCAC 10B .0101 TASKS AND DUTIES OF PRECINCT OFFICIALS AT VOTING PLACES

(a) For purposes of this Chapter, unless otherwise noted, the term "precinct officials" shall mean chief judge, precinct judge, assistants, emergency election-day assistants, and ballot counters.

(b) Tasks of Precinct Chief Judge - Precinct Chief Judges, in accordance with election statutes, within the Rules of the State Board of Elections, and under the supervision of the county board of elections, shall have the following tasks to perform as to each primary or election:

- (1) attend an instructional meeting presented by the county board of elections prior to each primary or election as required by G.S. 163-46;
- (2) upon learning that any parent, spouse, child, or sibling of the Precinct Chief Judge has filed for elective office, inform the county board of elections so that the county board of elections may disqualify the Precinct Chief Judge under G.S. 163-41.1(b) for the specific primary or election involved;
- (3) upon learning that any parent, parent in-law, spouse, child, child in-law, sibling, or sibling in-law of the Precinct Chief Judge has been appointed to serve in the same precinct, inform the county board of elections so that the county board of elections may appoint an emergency election-day assistant;
- (4) receive and review the signed list of the appointed observers as provided in G.S. 163-45;
- (5) receive and post a sample ballot in the voting place as provided in G.S. 163-165.2;
- (6) notify the county board of elections of any sickness, emergency, or other circumstances that will or might prevent the person from performing as precinct chief judge on a primary or election day;
- (7) receive, prior to the day of the primary or election, from the county board of elections any security keys or codes as to any voting systems or units that are to be operated at the precinct;
- (8) prior to the opening of the polls, administer to any precinct official, not previously sworn, the oath of office as set out in G.S. 163-41;
- (9) prior to the opening of the polls, ensure the technology and connectivity requirements of 08 NCAC 10B .0109(b) are met;
- (10) if at the time of opening the voting place, a judge has not appeared, appoint another person to act as precinct judge until the chair of the county board of elections appoints a replacement as set out in G.S. 163-41;
- (11) be present at the voting place at 6:00 a.m., and ensure the opening of the polls at 6:30 a.m. as mandated by G.S. 163-166 and 08 NCAC 10B .0102;
- (12) respond to any voter's request to have assistance to vote as set out in the provisions of G.S. 163-166.8(b);
- (13) ensure the continued arrangement of the voting enclosure as required in G.S. 163-166.2;
- (14) supervise the closing of the voting place at 7:30 p.m. in compliance with procedures set out in G.S. 163-166.10 and 08 NCAC 10B .0105;
- (15) handle challenges made on election or primary day in accordance with G.S. 163-87, and conduct the hearing upon said challenge in accordance with G.S. 163-88;

- (16) be responsible, as mandated by G.S. 163-182.3, for adherence to all rules pertaining to counting, reporting, and transmitting official ballots under 08 NCAC 10B .0105 and .0106;
- (17) ensure the maintenance of and appearance of efficient, impartial, and honest election administration at the precinct as required by G.S. 163-166.5(3);
- (18) monitor the grounds around the voting place to ensure compliance with the limitation on activity in the buffer zone under G.S. 163-166.4(a);
- (19) ensure peace and good order at the voting place as required by G.S. 163-48. Examples of peace and good order include:
 - (A) keeping open and unobstructed the place at which voters or persons seeking to register or vote have access to the place of registration and voting;
 - (B) preventing and stopping attempts to obstruct, intimidate, or interfere with any person in registering or voting;
 - (C) protecting challengers and witnesses against molestation and violence in the performance of their duties; and
 - (D) ejecting from the place of registration or voting any challenger or witness for violation of any provisions of the election laws or rules.
- (20) ensure that voters are able to cast their votes in dignity, good order, impartiality, convenience, and privacy as required in G.S. 163-166.7(c) and 08 NCAC 10B .0101;
- (21) if needed, check or assist in checking the registration of voters at the voting place;
- (22) if ballot counters are authorized by the county board of elections under G.S. 163-43, receive the list of counters from the county board, or appoint counters if authorized to do so by the county board. Prior to a ballot counter performing duties and tasks, administer the oath required by G.S. 163-43. Report to the county board of elections the names and addresses of any ballot counters to the county board at the county canvass as set out in G.S. 163-43.
- (23) perform the required legal duties of chief precinct judge/judge or face criminal consequences as set out in G.S. 163-274 (1); and
- (24) not accept money from candidates, commit fraud, false statements, or false writings in performing election duties, or face the criminal consequences set out in G.S. 163-275(3)(8)(9) and (12).

Where the precinct chief judge does not have the exclusive statutory mandate to perform a task or duty, a precinct judge may be designated to perform such task or duty.

(c) Tasks of Precinct Judge - Precinct Judges, in accordance with election statutes, within rules of the State Board of Elections, and under the supervision of the county board of elections, shall have the following tasks to perform as to each primary or election:

- (1) attend an instructional meeting presented by the county board of elections prior to each primary or election as required by G.S. 163-46;
- (2) upon learning that any parent, spouse, child, or sibling of the Precinct Judge has filed for elective office, inform the county board of elections so that the county board of elections may disqualify the Precinct Judge under G.S. 163-41.1(b) for the specific primary or election involved;
- (3) upon learning that any parent, parent in-law, spouse, child, child in-law, sibling, sibling in-law or first cousin of the Precinct Judge has been appointed to serve in the same precinct, inform the county board of elections so that the county board of elections may appoint an emergency election-day assistant;
- (4) if the chief judge fails to appear at the opening of poll, appoint, with the other precinct judge, a person to act as chief judge until the chairman of the county board appoints a new chief judge as per G.S. 163-41;
- (5) notify the county board of elections of any sickness, emergency, or other circumstances that will or might prevent the person from performing as precinct chief judge on a primary or election day;
- (6) be present at the voting place at 6:00 a.m., and ensure the prompt opening of the polls at 6:30 a.m. as mandated by G.S. 163-166 and any rules promulgated under 08 NCAC 10B .0102;
- (7) perform the required legal duties of chief precinct judge/judge or face criminal consequences as set out in G.S. 163-274(1);
- (8) not accept money from candidates, commit fraud, false statements, or false writings in performing election duties, or face the criminal consequences set out in G.S. 163-275(3)(8)(9) and (12); and
- (9) aid and cooperate with the precinct chief judge, as requested or needed, as to those duties noted in Subparagraphs (12) through (21) of Paragraph (b) of this Rule.

A precinct judge may be designated to perform tasks and duties of a chief precinct judge, where those duties are not statutorily made exclusive to the chief precinct judge.

(d) Tasks of Election Assistants - Election Assistants, in accordance with election statutes, within the rules of the State Board of Elections, and under the supervision of the county board of elections, shall have the following tasks to perform as to each primary or election:

- (1) check the registration of voters at the voting place as per G.S. 163-166.7(a);
- (2) guide voters to voting units or provide voters ballots as per G.S. 163-166.7(b);
- (3) prior to performing duties and tasks after being duly appointed, take the oath required by G.S. 163-41;
- (4) notify the county board of elections of any sickness, emergency, or other circumstances that will or might prevent the person from performing as an election assistant on a primary or election day;
- (5) upon learning that any parent, spouse, child, or sibling of the Election Assistant has filed for elective office, inform the county board of elections so that the county board of elections may disqualify the Election Assistant under G.S. 163-41.1(b) for the specific primary or election involved;
- (6) upon learning that any parent, parent in-law, spouse, child, child in-law, sibling, sibling in-law or first cousin of the Election Assistant has been appointed to serve in the same precinct, inform the county board of elections so that the county board of elections may appoint an emergency election-day assistant; and
- (7) aid the chief judge and other precinct judges in the performances of their tasks and duties as needed or directed.

(e) Tasks of Emergency Election – Day Assistant - Emergency Election-Day Assistants, in accordance with election statutes, within the rules of the State Board of Elections, and under the supervision of the county board of elections, shall have the following tasks to perform as to each primary or election:

- (1) be prepared prior to and on the day of a primary or election to serve, on notice given by the county board of elections, to travel to and work at any voting place within the county;
- (2) perform all the tasks and duties of an election assistant as set out in Paragraph (d) of this Rule;
- (3) notify the county board of elections of any sickness, emergency, or other circumstances that will or might prevent the person from performing as an election assistant on a primary or election day;
- (4) upon learning that any parent, spouse, child, or sibling of the emergency election-day assistant has filed for elective office, to inform the county board of elections so that the county board of elections may disqualify the emergency election-day assistant under G.S. 163-41.1(b) for the specific primary or election involved; and
- (5) upon learning that any parent, parent in-law, spouse, child, child in-law, sibling, sibling in-law or first cousin of the emergency election-day assistant has been appointed to serve in the same precinct, inform the county board of elections.

(f) Tasks of Ballot Counters - All ballot counters, in accordance with election statutes, with the rules of the State Board of Elections and under supervision of the county board of elections, shall perform all the following:

- (1) after appointment, appear at the poll at close of the polls and to be prepared to count ballots under the direction and control of the chief and other precinct judges;
- (2) prior to a ballot counter performing duties and tasks, take the oath required by G.S. 163-43;
- (3) upon learning that any parent, spouse, child, or sibling of the ballot counter has filed for elective office, inform the county board of elections so that the county board of elections may disqualify the ballot counter under G.S. 163-41.1(b) for the specific primary or election involved; and
- (4) upon learning that any parent, parent in-law, spouse, child, child in-law, sibling, sibling in-law or first cousin of the ballot counter has been appointed to serve in the same precinct, inform the county board of elections.

There is no requirement to have ballot counters appointed or used by a county board of elections. The county board of elections of any county may authorize the use of precinct ballot counters to aid the chief judges and judges of election in the counting of ballots in any precinct or precincts within the county. The county board of elections shall appoint the ballot counters it authorizes for each precinct or, in its discretion, the board may delegate authority to make such appointments to the precinct chief judge, specifying the number of ballot counters to be appointed for each precinct.

(g) General duties of all Precinct Officials - All precinct officials, in accordance with election statutes, with the rules of the State Board of Elections and under the supervision of the county board of elections, shall perform all of the following:

- (1) count votes when votes are required to be counted at the voting place, G.S. 163-182.2;
- (2) make an unofficial report of returns to the county board of elections, G.S. 163-182.2;
- (3) certify the integrity of the vote and the security of the official ballots at the voting place, G.S. 163-182.2;
- (4) return official ballots and equipment to the county board of elections, G.S. 163-182.2;
- (5) ensure that the voting system cannot be tampered with throughout the period voting is being conducted;
- (6) ensure that only properly voted official ballots are introduced into the voting system;

- (7) ensure that, except as provided by G.S. 163-166.9, no official ballots leave the voting enclosure during the time voting is being conducted there;
- (8) ensure that all improperly voted official ballots are returned to the precinct officials and marked as spoiled;
- (9) ensure that voters leave the voting place after voting;
- (10) ensure that voters not eligible to vote in the precinct but who seek to vote there are given assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote;
- (11) ensure that information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records, including any updates to a voter's voter registration, is recorded and delivered to the county board of elections;
- (12) ensure that registration records can only be accessed by precinct officials;
- (13) ensure that party observers are given access as provided by G.S. 163-45 to current information about which voters have voted;
- (14) aid any voter, as needed, in curbside voting as provided for in G.S. 163-166.9;
- (15) provide Spanish ballot instructions when such instructions are required by Section 203 of the Voting Rights Act of 1965, and direct all language needs that can not be handled at the precinct to the county board office;
- (16) register and help, at the voting place, those persons eligible to register and vote on election day as allowed by G.S. 163-258.28 and G.S. 163-82.6(d);
- (17) report to the county board of elections, any physical or mental ailment, impairment, or deterioration that may adversely affect the performance of an election related task or duty. Report any such conditions known in any other precinct officials to the county board;
- (18) report any violation of election laws or regulations to the chief judge, or report such violation to the county board of elections if the chief precinct judge is involved in the violation;
- (19) provide any person who requests it any information on how to contact the county director of elections, the county board of elections, or the office of the State Board of Elections; and
- (20) work and stay at the voting place, at all times during the voting day, until closure. By prior agreement with the county board of elections and pursuant to G.S. 163-42, election assistants and emergency election-day assistants may work less than the entire voting day.

History Note: Authority G.S. 163-22; 163-166.6;
 Temporary Adoption Eff. April 15, 2002;
 Eff. August 1, 2004;
 Readopted Eff. September 1, 2019.

08 NCAC 10B .0102 SETTING UP POLLING PLACE PRIOR TO VOTING

- (a) The Chief Judge, Judges, and Assistants shall arrive at the voting place no later than 6:00 a.m. on the day of the election.
- (b) The Chief Judge shall administer the oath to Judges and Assistants who have not taken the oaths required by G.S. 163-41 or G.S. 163-42.
- (c) The Chief Judge shall assign tasks regarding the setup of the polling place to ensure the participation of judges and assistants of each represented party. At least one official shall be directed by the Chief Judge to manage curbside voting and facilitate the process for voters with special needs.
- (d) The Chief Judge or designated official shall ensure that the telephone or other device required by 08 NCAC 10B .0109(b) is working.
- (e) The members of the County Board of Elections shall ensure the following:
 - (1) each voting system is delivered to the voting place and placed in the custody of the Chief Judge or designated official within three days before the election with the ballot labels or other precinct designation already in place on each unit;
 - (2) keys and other security devices necessary for the operation of the voting system are delivered to the Chief Judge;
 - (3) a board member or employee of the County Board of Elections and the Chief Judge or designated official shall confirm the keys and other security devices are provided to the Chief Judge;
 - (4) all numbers stamped on the keys and security devices should correspond to the number of the voting units;
 - (5) a board member or employee of the County Board of Elections and the Chief Judge or designated official shall ensure that the ballots are in position and that no votes have been cast or recorded on any unit, and that the units are operating according to manufacturer specifications;

- (6) voting tabulating units shall be locked and sealed (or otherwise secured in the manner recommended by the manufacturer) and shall remain that way until the polls are closed; and
 - (7) keys and other security devices are kept in a location that cannot be accessed by anyone other than election officials.
- (f) The Chief Judge, with the cooperation of at least one official of the other major political party shall verify the delivery of all election supplies, records and equipment necessary for the conduct of the election.
- (g) The Chief Judge shall ensure that all voting instructions, signs, and sample ballots are posted around the polling place, including signs designating the voting place, the buffer zone, temporary or permanent accessible parking, and the curbside voting area.
- (h) The Chief Judge shall ensure that the polling place is arranged to provide private spaces so voters may cast votes unobserved. The Chief Judge shall also ensure that there is adequate space and furniture for separate areas for voter registration records, ballot distribution, and private discussions with voters. The voting enclosure must be set up so that all equipment and furniture can be seen by the Chief Judge, Judges, and Assistants. The exterior of the voting units and every part of the voting enclosure shall be in plain view of the Chief Judge and Judges.
- (i) The door to the voting place/enclosure shall be sufficiently wide to accommodate voters in wheelchairs. The door width, hardware, and thresholds shall comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) which is hereby incorporated by reference, including any subsequent amendments or editions, which can be found free of charge at <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/background/adaag>. The County Board of Elections must approve any plan that would cause a deviation in the set up and arrangement of the voting enclosure. For example, generally the door into the voting place/enclosure shall be the same door used to exit the voting place/enclosure. However, if by doing so the flow of voters is disturbed, a separate door may be used to exit the voting place/enclosure. If a separate door is used, it shall be in plain view of the Chief Judge, Judges, and Assistants so that they can ensure that only election officials may enter the voting enclosure through the exit door.
- (j) The Chief Judge shall assign a Judge or Assistant to provide demonstrations to voters, upon request, in the use of the voting system.
- (k) At the Chief Judge's request at 6:30 a.m. one of the Judges shall announce that the polls are open and that polls will close at 7:30 p.m.

*History Note: Authority G.S. 163-22; 163-165.5;
Temporary Adoption Eff. April 15, 2002;
Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017;
Amended Eff. September 1, 2019.*

08 NCAC 10B .0103 VOTING PROCEDURES

- (a) From the time the polls are opened on Election Day until the precinct count has been completed, the returns signed, and the results declared, no person shall take or remove from the voting enclosure election supplies and materials, including official ballots, containers of official ballots, provisional official ballots, spoiled ballots, the pollbook or voter authorization slips, the registration records or any voting units or devices that are part of the voting system, except as authorized by G.S. 163-166.9 or 08 NCAC 10B .0108 to accommodate curbside voters. Provisions for removal of election supplies and materials at any time are permissible under the emergency management plan of a county board of elections in the cases of natural or man-made emergencies, pursuant to 08 NCAC 10B .0106.
- (b) A person seeking to vote shall enter the voting enclosure at the voting place through the designated entrance and shall communicate the person's name and place of residence to one of the election officials. The election official may prompt the voter to provide this information. In a primary election, the voter shall also state the political party with which the voter affiliates and in whose primary the voter desires to vote, or if the voter is an unaffiliated voter permitted to vote in the primary of a particular party, the voter shall state the name of the authorizing political party in whose primary the voter wishes to vote. Unaffiliated voter participation in party primaries is subject to authorization by the respective State party executive committees pursuant to G.S. 163-119. Unaffiliated voters who are otherwise qualified may always participate in non-partisan primaries. This information, including the political party's primary in which the voter elected to participate, provided by the voter shall be recorded in the precinct pollbook or on the voter authorization slip. The election official to whom the voter gives this information shall announce the name and residence of the voter so that the information may be heard by other officials and observers. After examining the precinct registration records, the election official shall state whether the person seeking to vote is registered. The election official shall not presume the name, address, or party affiliation of any person seeking to vote.

(c) If the person is found to be registered and is not challenged pursuant to G.S. 163-87 or if the challenge is overruled pursuant to G.S. 163-88(a), the election official shall provide the voter with each official ballot the voter is entitled to vote. In a primary election the voter shall be allowed to vote the political party ballots the voter is entitled to vote and no others. Unaffiliated voters may choose to participate in only one party's primary and no others in the same election, or they may choose to vote a nonpartisan ballot. In the case of a second primary, unaffiliated voters who participated in a party's primary in the first primary may only vote that party's ballot in the second primary. However, if an unaffiliated voter did not participate in the first primary, the voter may choose which party's primary to participate in during the second primary.

(d) No person shall be denied the option to vote a provisional ballot. Reasons a person may vote a provisional ballot include that the person:

- (1) is a registered voter in the county and has moved into the precinct 30 days or more prior to the election and has not reported the change to the board of elections;
- (2) claims to have applied for voter registration in the county but there is no record of the person's name on the registration records;
- (3) was removed from the list, but the person maintains eligibility to vote within the county;
- (4) disputes the ballot style to which the person has been assigned; or
- (5) on Election Day the person is found not to be registered to vote in the precinct and the responsible election official learns from the person that the person resides in a different precinct. In this case, the responsible election official shall inform the person that the person may vote a provisional ballot at the precinct or may go to the proper precinct under G.S. 163-55, G.S. 163-57, and G.S. 163-82.15(e).

(e) It is the duty of the election official to gather any voter information regarding changes of name and address in order to assist the county board of elections in updating voter records. If the county board of elections has identified a voter's record as lacking information or requiring updated information, the responsible election official shall require the voter to update the information.

(f) It is the duty of the election officials to give any voter any technical information the voter desires in regard to ballot items. In response to questions asked by the voter, the election official shall communicate to the voter only technical information necessary to enable the voter to vote the ballot. Technical information may include the number of pages the ballot contains or confirmation that the voter received the correct ballot style.

(g) On Election Day the Chief Judge shall assign two precinct officials, one from each political party if possible, to keep the pollbook or other voting record and to keep the registration list. The names of all persons voting shall be checked on the registration record and entered on the pollbook or other voting record. In an election where observers may be appointed pursuant to G.S. 163-45, each voter's party affiliation shall be entered in the proper column of the pollbook or other record approved by the State Board opposite the voter's name. The designated official shall make each entry at the time the ballots are handed to the voter. The information about the voter's political party registration shall be obtained from the registration record and not from the voter.

(h) Election officials must ensure that registration records are kept secure and do not leave the voting enclosure for any purpose. Observers appointed pursuant to G.S. 163-45 are entitled to obtain a list of the persons who have voted in the precinct so far in that election day at least at the following times: 10 a.m., 2 p.m. and 4 p.m. Counties using authorization to vote documents as opposed to traditional pollbooks may comply with the requirement by permitting each observer to inspect election records so that the observer may create a list of persons who have voted in the precinct.

*History Note: Authority G.S. 163-22; 163-166.7;
Temporary Adoption Eff. April 15, 2002;
Eff. August 1, 2004;
Temporary Amendment Eff. August 23, 2019;
Readopted Eff. June 1, 2020.*

08 NCAC 10B .0104 LEAVING THE VOTING ENCLOSURE, SPOILED OR INCOMPLETE BALLOTS

(a) When the voter has been presented with the official ballots by the judge, the voter shall be deemed to have begun the act of voting, and the voter shall not leave the voting enclosure until the voter has finalized the act of voting. On receiving the ballots, the voter shall retire alone to one of the voting booths, unless the voter is entitled to assistance under G.S. 163-166.8, where the voter shall mark the ballots. The voter shall return any unvoted ballots to the precinct officials.

(b) If a voter spoils or damages a ballot, the voter may obtain another upon returning the spoiled or damaged ballot to the chief judge or other designated official. A voter shall not be given a replacement ballot until the voter has returned the spoiled or damaged ballot. The voter shall not receive more than three replacement ballots. The chief judge shall deposit each spoiled or damaged ballot in the container provided for that purpose.

- (c) When the voter has marked the ballot the voter shall ensure the ballot is cast according to the instructions provided by precinct officials. After casting his or her ballots, the voter shall leave the voting enclosure unless the voter is authorized to remain within the enclosure for purposes of assisting a voter pursuant to G.S. 163-166.8.
- (d) No voter shall be permitted to occupy a voting booth already occupied by another voter, except that spouses may occupy the same voting booth if both wish to do so. Excluded from this prohibition are persons providing assistance under G.S. 163-166.8.
- (e) When the voter leaves the voting enclosure, whether or not the voter has finalized voting, the voter shall not be permitted to enter the voting enclosure again for the purpose of voting.
- (f) If a voter leaves the voting enclosure and has not finalized the act of voting by pressing the button or touching the screen in the space in the case of Direct Record Electronic Voting Machines, by feeding the ballot into the tabulator in the case of Optical Scan Equipment, or by depositing the paper ballot into the ballot box, the chief judge or judges of election may find, by unanimous vote, that the ballot marked by the voter had not been disturbed by any other person and may execute the ballot for the voter who has vacated the voting enclosure. If the Chief Judge and Judges of election cannot unanimously confirm that the ballot marked by the voter has not been disturbed, the ballot must be marked as spoiled and placed with other spoiled ballots (or in the case of direct record electronic machines, the ballot must be cleared according to the voting system specifications). The fact that a ballot is only partially and not fully marked shall have no bearing on the decision of the Chief Judge and Judges. In each instance where this type of incident occurs, the Chief Judge and Judges must document the circumstances and make the information known to the county board of elections.

*History Note: Authority G.S. 163-22; 163-166.7;
Temporary Adoption Eff. April 15, 2002;
Eff. August 1, 2004;
Readopted Eff. September 1, 2019.*

08 NCAC 10B .0105 PROCEDURES AT THE CLOSE OF VOTING

- (a) Before each primary and election, the chairman of the county board of elections shall furnish each chief judge written instructions provided by the State Board pursuant to G.S. 163-182.1, G.S. 163-182.2, and 08 NCAC 06B. 0105 on how ballots shall be marked and counted. Before starting the counting of ballots in the precinct, the chief judge shall instruct all of the judges, assistants, and ballot counters in how marked ballots shall be counted and tallied.
- (b) The Chief Judge shall announce or have it announced that the polls are closed at 7:30 p.m. unless the time has been extended pursuant to G.S. 163-166.01. Time shall be determined by the same timepiece used to determine the opening of the polls.
- (c) Any person who is in line at the close of polls shall be afforded an opportunity to vote. A list shall be made, starting at the end of the line and moving forward, of everyone standing in line at the close of polls and anyone whose name is on that list shall be permitted to vote. No person entering the voting enclosure after the close of polls has been announced, other than those whose names are on the list, shall be permitted to vote under any circumstance.
- (d) The Chief Judge and Judges must subscribe their names to each pollbook.
- (e) Only official ballots shall be voted and counted in accordance with G.S. 163-182.1(a). No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to determine the voter's choice under the rules for counting ballots. Such determination shall be made by the county board of elections if the chief judge and judges are unable to determine the voter's choice, or whether a particular ballot shall be counted.
- (f) No person shall intentionally deface or tear an official ballot in any manner, and no person, other than the voter, shall intentionally erase any name or mark written on a ballot by a voter.
- (g) The Chief Judge, along with a Judge of another political party, shall "close the polls" on each voting unit. The results sheet from each unit shall be placed in an "Official Precinct Returns Envelope." As soon as the polls are closed the chief judge and judges shall, without adjournment or postponement, count the ballots. The counting of ballots at the precinct shall be continuous until completed. More than one voting unit may be counted at the same time by the precinct officials, assistants, and ballot counters, but the chief judge and judges shall supervise the counting of all units and shall be responsible for them. From the time the first unit is read or opened and the count of votes begun until the votes are counted and the statement of returns made out, signed, certified and provided to the chief judge or judge responsible for delivering them to the county board office, the precinct chief judge and judges shall not separate, nor shall any one of them leave the voting place except in case of unavoidable necessity as determined by the Chief Judge.
- (h) The counting of the ballots shall be made in the presence of the precinct election officials and witnesses and observers who are present and desire to observe the count. Observers shall not interfere with the counting of the ballots.

(i) As soon as the votes have been counted and the precinct returns certified, the chief judge, or one of the judges selected by the chief judge, shall do the following:

- (1) report the total precinct vote for each ballot item to the witnesses and observers who are present; and
- (2) report by telephone or other electronic means the total precinct vote for each ballot item to the county board of elections.

The total precinct vote shall be unofficial and shall have no binding effect upon the official county canvass to follow.

(j) The Chief Judge and Judges shall sign the consolidation and accounting sheets and statement of returns and shall place them in the "official precinct returns" envelope or container.

(k) The Chief Judge shall place or cause to be placed in a sealed container by an authorized person under the Chief Judge's direction and control the following:

- (1) voter registration documents and information;
- (2) provisional ballot envelope;
- (3) payroll information for precinct officials;
- (4) county board communication devices, unit keys and security devices; and
- (5) the official returns envelope.

The container shall be sealed with non-transparent tape of sufficient size to contain signatures. It shall be signed by the Chief Judge and two Judges.

(l) Consolidation sheets, including the statement of returns for all voted official ballots, shall be completed by adding curbside votes to the totals. In any precinct using direct record electronic voting equipment, the county board of elections may provide for any paper ballots to be transported upon closing of the polls to the office of the county board of elections for counting. An accounting form shall be completed that accounts for every used and unused ballot providing the number of blank ballots received from the board of elections, the number of regular voted ballots, provisional voted ballots, and spoiled ballots.

(m) Voted provisional ballots must be placed in a sealed envelope or container and the seal must be signed by the Chief Judge and Judges.

(n) The Chief Judge or precinct official shall bring the results cartridge (or reading) from each unit to the board of elections office.

(o) All supplies must be collected for return to the board of elections office. Any items brought into the polling place facility shall be removed upon vacating the polling place. Precinct Judges shall ensure that the facility is left in the same condition in which it was received for voting purposes.

(p) Under no circumstance shall voting items be left in the polling place facility out of the custody of the Chief Judge or other designee.

*History Note: Authority G.S. 163-22; 163-166.10;
Temporary Adoption Eff. April 15, 2002;
Eff. August 1, 2004;
Readopted Eff. September 1, 2019.*

08 NCAC 10B .0106 ELECTION SUPPLIES RETURN

(a) After an election or primary, all election supplies, including but not limited to election results materials, registration and voter history materials, provisional voting materials, challenged voter materials, ballots, and completed forms, shall be taken to the county board of elections office as soon as all procedures described in 08 NCAC 10B .0105 are complete.

(b) Election materials and supplies, used or unused, shall not remain in the custody of the Chief Judge, Judges, or any other person and shall be returned to the county board of elections office. If it is not possible for a county board of elections to have all precincts return materials and supplies on the night of the election, the county board of elections must submit a security plan describing how election materials and supplies shall be temporarily stored to the Executive Director of the State Board of Elections 30 days prior to the election. The Executive Director will provide either approval or required modifications to the plan in writing no later than 15 days prior to the election. Factors to be used in making a determination under this Paragraph may include:

- (1) the distance of the round trip from the precinct to the county board of elections office;
- (2) whether heavy traffic exists, including due to tourism or construction; and
- (3) anticipated weather conditions.

(c) Each board of elections shall have an emergency backup plan to be implemented when an emergency as determined by the Chief Judge prevents election materials and supplies from being returned as described in Paragraph (a) of this Rule. The

emergency backup plan shall enable board of elections employees or other authorized persons to retrieve the items from the custody of the Chief Judge and Judges and transport them to the board of elections office.

(d) All materials shall be transported with a "chain of custody" form that includes a list of the supplies used at the voting site, the signatures and times in which the supplies are in the custody of each official. All supplies, once received at the board of elections, shall be verified and signed for by a board of elections representative.

History Note: Authority G.S. 163-22; 163-166.10;
Temporary Adoption Eff. April 15, 2002;
Eff. August 1, 2004;
Readopted Eff. September 1, 2019.

08 NCAC 10B .0107 ASSISTANCE TO VOTERS IN PRIMARIES AND GENERAL ELECTIONS

(a) Any assistance rendered to a voter under G.S. 163-166.8 shall be performed in person, and shall not be allowed by electronic, paper, or mechanical means of communication with a person outside the voting booth, except as provided in G.S. 163-166.8(a)(2). The use of electronic, paper, or mechanical devices by the voter, while alone in the voting booth and not in contact with another person outside the voting booth, shall not be considered voting assistance.

(b) No precinct official may refuse the voter's choice of the person to assist the voter, unless the person so named is excluded by G.S. 163-166.8, does not appear at the voting place to assist the voter prior to the close of the polls, or refuses to assist the voter. If the voter's choice of the assisting person is not available for one of the reasons set forth in this Paragraph, the voter shall be allowed to make an additional choice until a willing assisting person is available to assist the voter. There shall be no limitation on the number of voters a person can assist, as long as the assisting person is chosen by each voter to assist.

(c) A person seeking assistance in any election shall, upon arriving at the voting place, first request the chief judge to permit him to have assistance, communicating the reasons. If the chief judge determines that the voter is entitled to assistance, the chief judge shall ask the voter to identify the person the voter desires to provide assistance. If the person the voter requests to provide assistance is not present, the voter is entitled to contact the person and to wait for the person at the voting place, but outside the voting enclosure. When that person is available to assist or is already present to assist, the voter, along with that person, shall present themselves to the chief judge. The chief judge shall thereupon request the person indicated to render the requested aid. In the case of assistance requested at a one-stop voting site, the assistance may be requested and received from any election official available at such site.

(d) Any chief judge, judge, or assistant shall provide assistance to a voter if so requested, unless the election official is prohibited from doing so by his status as the voter's employer, official of the voter's union, or agent of the voter's employer or union. Under no circumstances shall any precinct official or person be assigned to assist a voter who was not specified by the voter.

(e) Conduct of Persons Rendering Assistance. - Anyone rendering assistance to a voter shall be admitted to the voting booth with the person being assisted and shall be governed by G.S. 163-166.8(c). The assisting person shall not do the following:

- (1) give, present, or display within the vision of the voter, any list of preferred candidates, a marked sample ballot, or any other type of document, item, or display that conveys a choice of candidate(s) unless it was brought to the voting booth by the voter. An assisting person may respond to an inquiry of a hearing impaired voter in writing if needed, as long as a ballot choice is not communicated to the voter;
- (2) speak or play within the hearing or vision of the voter, any conversation, communication, or recording that conveys a choice of candidate(s);
- (3) operate a phone, radio, computer, or any other means of communication while in the voting booth with the voter;
- (4) seek to persuade or induce any voter to cast any vote in any particular way;
- (5) communicate to others how the voter voted, unless ordered by a court, or make a memorandum of anything that occurred in the voting booth; or
- (6) violate any election law set out in G.S. 163 or violate any election rule set out in Title 8 of the NC Administrative Code.

History Note: Authority G.S. 163-22; 163-166.8;
Temporary Adoption Eff. April 15, 2002;
Eff. August 1, 2004;
Readopted Eff. September 1, 2019.

08 NCAC 10B .0108 CURBSIDE VOTING

Pursuant to G.S. 163A-1140, curbside voting shall take place under the following procedures:

- (1) The county board of elections shall have printed and numbered a supply of affidavits to be distributed to each precinct chief judge that shall be in the following form:

Affidavit of Person Voting Outside Voting Place or Enclosure

State of North Carolina
County of _____

I do solemnly swear (or affirm) that I am a registered voter in _____ precinct. That because of age or physical disability I am unable to enter the voting place to vote in person without physical assistance. That I desire to vote outside the voting place and enclosure. I understand that a false statement as to my condition will be in violation of North Carolina law.

_____ Date

_____ Signature of Voter

_____ Address

_____ Signature of precinct election official who administered oath;

- (2) The chief judge or a judge may designate one of the assistants to attend the voter, or assist the voter himself or herself. Upon arrival outside the voting place, the voter shall execute the affidavit after being sworn by a precinct election official. The ballot shall then be delivered to the voter who shall mark the ballot and hand it to the assisting precinct election official. The ballot shall then be delivered to one of the judges of elections who shall deposit the ballot in the proper boxes. The affidavit shall be delivered to a different judge of election.
- (3) The voter and any assisting person shall be entitled to the same assistance and subject to the same restrictions in marking the ballot as set forth in G.S. 163A-1139 and 08 NCAC 10B .0107.
- (4) The affidavit executed by the voter shall be retained by the county board of elections for a period of six months.
- (5) In those precincts using voting machines, the county board of elections shall furnish paper ballots of each kind for use by persons in accordance with this Rule and G.S. 163A-1140.
- (6) In any precinct using direct record electronic voting equipment, the county board of elections may provide for all such paper ballots to be transported upon closing of the polls to the office of the county board of elections for counting. Those ballots may be transported only by the chief judge, judge, or assistant and shall be tracked using a ballot control form. Upon receipt by the county board of elections, these ballots shall be counted and canvassed in the same manner as one-stop ballots cast under G.S. 163A-1300 except that the count shall commence when the board has received from each precinct either that precinct's ballots or notification that no such ballots were cast. Ballots counted by the county board of elections under this Paragraph shall be tabulated so that election-day curbside ballots and one-stop curbside ballots are tabulated separately from each other and from other precincts and/or reporting groups.

*History Note: Authority G.S. 163A-741; 163A-1140;
Temporary Adoption Eff. April 15, 2002;
Eff. August 1, 2004;
Readopted Eff. October 1, 2018.*

08 NCAC 10B .0109 VOTING SITE UNIFORMITY

(a) Station Set-Up. All equipment and furniture in the voting enclosure shall be arranged so that it can be seen from the public space of the voting enclosure. Each voting enclosure shall contain at a minimum:

- (1) Check-in station, where voters may provide identification information if required pursuant to G.S. 163A-1144 and declare their intent to vote. The check-in station shall include the following:
 - (A) Voter lists or pollbooks. If the voting site utilizes an electronic pollbook, the site must also maintain a backup hardcopy for use in the event of technical difficulty or disruption;

- (B) Authorization to Vote Forms and labels on Election Day or One-Stop Absentee Applications during the one-stop early voting period, and all such other supplies as may be required by the Executive Director of the State Board; and
 - (C) Guides, signage, and all other materials as may be required by the Executive Director of the State Board for the effective administration of elections, displayed in the manner specified;
- (2) Ballot station, where elections officials distribute official ballot and provide ballot-marking instructions to voters who have completed required vote-authorization document(s);
 - (3) Help station, where voters can receive assistance if there is any issue checking in the voter, pursue provisional voting, and where voter challenges shall be heard;
 - (4) Voting stations (or "booths") shall be situated in a manner that ensures the privacy of the voter's selections and shall be maintained in a manner clear of electioneering materials and sample ballots. The number of booths shall not be fewer than a minimum number determined by the county board of elections, unless a greater number is specified by the Executive Director of the State Board based on expected voter turnout or other factors;
 - (5) Exit station, where an election official ensures ballots are appropriately placed in the tabulator or ballot box; and
 - (6) Curbside station, where qualified voters may vote curbside in accordance with 08 NCAC 10B. 0108.
- (b) Technology and Connectivity. Every voting enclosure must have access to a phone or other device, including a cell phone when service is available in the building, that facilitates communication with the county board of elections office and emergency services. The county board of elections office shall keep a record of contact information for each voting enclosure within the county and ensure all elections officials have contact information for the county board of elections office and emergency services. Elections officials shall monitor the phone or device.
- (c) Check-in Station. Persons seeking to vote shall enter the voting enclosure through the entrance and present at the Check-in Station. The election official at the check-in station shall:
- (1) Ask the voter to state their current name (as required by G.S. 163A-1137(a)). If, due to disability, a voter is unable to state his or her name, he or she may otherwise signal to the elections official, including by way of a person providing assistance or through documents;
 - (2) Ask the voter to state the address where he or she resided for at least 30 days as of Election Day (as required by G.S. 163A-1137(a));
 - (3) If the election is a partisan primary: Ask the voter to indicate his or her party affiliation or, if the voter is unaffiliated, to state which of the available primary ballots he or she prefers;
 - (4) If required under G.S. 163A-1144, ask the voter to provide acceptable identification. Examine identification document presented by the voter;
 - (5) Search for and correctly identify the voter in the pollbook or its equivalent;
 - (6) Make any updates or corrections to the voter's name in the voter record;
 - (7) Update the voter's address in the voter record (or alternately, complete documentation to make that change if the process is not automatic), if the voter has moved to a new address in the county and will have lived at the address for at least 30 days as of the date of the election;
 - (8) If the voter does not present acceptable identification necessary to verify the identity of a previously unverified voter:
 - (A) Provide the help referral form provided by the State Board; and
 - (B) Direct the voter to the Help Station;
 - (9) Provide the voter with an authorization to vote document or one-stop application and ask the voter to confirm the information and sign the document. The vote-authorizing documents should be numbered sequentially to aid in the voting site's required ballot reconciliation process;
 - (10) Sign the authorization to vote document or one-stop application before directing the voter to the ballot station where, provided the voter is duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that produces the official ballot; and
 - (11) If a voter is not found to be registered or cannot be directed to the ballot station:
 - (A) Provide the help referral form provided by the State Board; and
 - (B) Refer the voter to the help station for the purpose of receiving alternate voting options.
- (d) Ballot Station. The ballot station official shall accept the vote-authorizing document from the voter and review the form and ensure that it is signed by the voter. For counties using paper ballots, the official shall retrieve the ballot style listed on the vote-authorizing document. If the voting site has more than one ballot style, the official must scan the barcode on the ballot

style retrieved and then scan the barcode on the vote-authorizing document to ensure that the voter is issued the correct ballot. During one-stop absentee voting, before issuing the ballot to the voter, the precinct official shall record the absentee application number on the ballot. For counties whose paper ballots are coded by style the official must record the precinct/voter tabulation district number on the ballot. The official shall sequentially number the authorization to vote document or one-stop application. Next, the precinct official shall:

- (1) Direct the voter to the voting equipment and provide instructions for use of the equipment as necessary;
- (2) Instruct the voter to mark the ballot before placing the ballot into the tabulator;
- (3) Provide the voter with any technical information the voter desires as necessary to enable voting; and
- (4) If a voter makes a mistake and asks for a new ballot, the ballot station official shall follow procedures pursuant to 08 NCAC 10B. 0104.

(e) Help Station. The help station is the location in the voting enclosure for discussion with voters about irregular situations including provisional voting or precinct transfers. A voter may be sent to the help station if there is some issue with the voter's registration or the voter is unable to receive a regular ballot. Each individual help station shall have:

- (1) A Voting Site Station Guide available and on display, as provided by the Executive Director of the State Board;
- (2) Supplies as specified by the Executive Director of the State Board; and
- (3) At least one voting booth set up at or near the station for provisional voters to mark their ballots.

(f) Exit Station. An election official shall be posted at the exit point of a voting enclosure where paper ballots are used and shall ensure only official ballots are deposited into the tabulator or ballot box. The exit station official shall ensure that no provisional ballots are placed in the ballot box and that voters do not leave the voting enclosure with a ballot.

(g) Curbside Station. Every voting site in the state shall have an area where qualified voters may vote curbside in accordance with 08 NCAC 10B. 0108.

History Note: Authority G.S. 163A-741; 163A-1137; 163A-1168;
Eff. October 1, 2018.