

## CHAPTER 04 – VOTING EQUIPMENT

### SECTION .0100 - USE OF MECHANICAL VOTING MACHINES

<b>08 NCAC 04 .0101</b>	<b>TYPE OF VOTING MACHINES ALLOWED</b>
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*History Note:* Authority G.S. 163-160; 163-161;  
Eff. March 12, 1976;  
Temporary Repeal Eff. April 15, 2002;  
Repealed Eff. August 1, 2004.

### SECTION .0200 - USE OF PUNCH-CARD VOTING EQUIPMENT

<b>08 NCAC 04 .0201</b>	<b>DEFINITIONS</b>
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<b>08 NCAC 04 .0203</b>	<b>VOTE RECORDERS:TABULATING:COUNTING DEVICES</b>
<b>08 NCAC 04 .0204</b>	<b>BALLOT LABELS:IDENTIFICATIONS</b>
<b>08 NCAC 04 .0205</b>	<b>PREPARATION FOR ELECTIONS:PRECINCT ELECTION OFFICERS</b>
<b>08 NCAC 04 .0206</b>	<b>PROCEDURE AT THE POLLING PLACE</b>
<b>08 NCAC 04 .0207</b>	<b>COLLECTION OF VOTING EQUIPMENT AFTER ELECTION</b>
<b>08 NCAC 04 .0208</b>	<b>MANUFACTURERS REQUIRED TO PRESENT RULES</b>

*History Note:* Authority G.S. 163-160; 163-161;  
Eff. March 12, 1976;  
Temporary Repeal Eff. April 15, 2002;  
Repealed Eff. August 1, 2004.

### SECTION .0300 – APPROVAL AND OPERATION OF VOTING SYSTEMS

#### **08 NCAC 04 .0301 REQUIREMENTS OF VOTING SYSTEMS**

Any voting system used in any election in North Carolina shall be constructed to fulfill the following requirements:

- (1) It shall be designed to reasonably secure secrecy of the voter in the act of voting;
- (2) It shall enable the voter to vote a straight party ticket in a general election;
- (3) It shall require the voter to vote for the candidates for president and vice-president separately from the straight party vote;
- (4) It shall provide capacity for listing of all nominees of all recognized political parties and other lawful candidates;
- (5) It shall, except in primary elections, permit the voter to vote for all the candidates of one party, or in part for the candidates of one or more other parties;
- (6) It shall permit the voter to vote for only as many persons for an office as the voter chooses and is lawfully entitled to vote for;
- (7) It shall prevent the voter from voting for the same persons more than once for the same office;
- (8) It shall permit the voter to vote for or against only the question(s) the voter may have the right to vote;

- (9) It shall permit each voter in a general election but not in a primary, to write in the name of persons for whom he desires to vote, whose names do not appear upon the ballot, except where prohibited by G.S. 163-123 or other statutes;
- (10) It shall be equipped for use in primary elections so that the voter may vote only in the primary election to which the voter is entitled to vote;
- (11) When properly operated, it shall correctly register or record, and accurately count all votes cast for all ballot items;
- (12) It shall contain a visible public counter that shall show at all times during an election the number of persons who have voted;
- (13) It shall clearly indicate to the voter during the act of voting the ballot items the voter has selected;
- (14) Vote totals for each ballot item shall be contained by a method that is locked and concealed at all times during the time the polls are open;
- (15) It shall meet current Federal Voting System Standards or other applicable Federal Standards;
- (16) It shall be suitably designed and durably constructed for the conduct of elections; and
- (17) It shall be equipped to provide retrievable ballots during absentee voting where an absentee voter's ballot is linked to that voter for possible retrieval if it becomes necessary to take action as to that cast ballot.

*History Note:* Authority G.S. 163-22; 163-165.7;  
 Temporary Adoption Eff. April 15, 2002;  
 Eff. August 1, 2004.

#### **08 NCAC 04 .0302 APPROVAL OF VOTING SYSTEMS**

- (a) Before approving a voting system for use in North Carolina, the State Board of Elections shall do all of the following:
  - (1) Obtain a current financial statement from the proposed vendor and manufacturer's contact information (mail address, telephone and fax numbers, email address);
  - (2) Cause staff to review and appraise the voting system;
  - (3) Witness a demonstration of the voting system by the proposed vendor;
  - (4) Obtain a copy of Independent Testing Authority certification as authorized by National Association of State Elections Directors or Federal Agency;
  - (5) Ensure that a copy of the system's source code is held in escrow by a third party approved by the State Board of Elections for the purpose of taking custody of all source codes, including all revisions or modifications of source codes. Proprietary information is not subject to North Carolina Public Records laws;
  - (6) Any discussion of proprietary information by the State Board of Elections shall take place in Closed Session as authorized by the Open Meetings requirements of North Carolina law;
  - (7) Ensure performance of system complies with North Carolina laws and rules related to voting systems;
  - (8) Obtain a copy of the manufacturer's instructions and maintenance manual;
  - (9) Obtain a list of all jurisdictions currently using the voting system; and
  - (10) Review any other information made available to the Board.
- (b) Modifications or Enhancement of Voting Systems. A change to any voting system or unit, including software and hardware modification, shall be submitted in writing for the review of the Executive Director of the State Board of Elections. Following the review, the Executive Director shall determine whether the change is a modification of the voting system as certified by the State Board of Elections. If it is determined to be a modification, the voting system as modified shall be submitted to the State Board of Elections for approval. If the Executive Director shall determine the change is an enhancement that does not substantially alter the voting system as certified by the State Board of Elections, the Executive Director may approve the enhancement and the review of the State Board of Elections shall not be required.
- (c) Disapproval of Voting System. The State Board of Elections shall have the right to hear and act on complaints arising by petition or otherwise, on the failure or neglect of a voting system or vendor marketing a system to comply with any part of the election laws of the State of North Carolina or for any other satisfactory cause, including but not limited to, performance of the system in an election setting. Before exercising this power, the State Board of Elections shall notify the voting system vendor and/or county boards of elections affected and give opportunity to be heard at a hearing to be set by the State Board of Elections.

*History Note:* Authority G.S. 163-22; 163-165.7;  
Temporary Adoption Eff. April 15, 2002;  
Eff. August 1, 2004.

**08 NCAC 04 .0303 OFFICIAL BALLOT(S) TO BE USED ON VOTING SYSTEM**

*History Note:* Authority G.S. 163-22; 163-165.6;  
Temporary Adoption Eff. April 15, 2002;  
Eff. August 1, 2004;  
Expired Eff. February 1, 2017 pursuant to G.S. 150B-21.3A.

**08 NCAC 04 .0304 OPERATION AND MATTER OF VOTING ON VOTING SYSTEMS**

(a) Prior to the opening of the polls, the precinct officials shall open the voting system and examine the ballot for accuracy and examine the counters or other method to determine there is a zero balance. Any persons interested in viewing this procedure may observe but shall not interfere or impede the process. If the system prints a zero tape or other paper document, the document shall be maintained and secured in the manner prescribed by the manufacturer and the county board of elections.

(b) The voter shall follow the instructions contained on the voting system. Only official ballots shall be introduced into the voting system. Spoiled or damaged ballots shall not be introduced into the voting system. If a voter improperly marks or damages a ballot, it shall be returned to the precinct official, marked as spoiled and maintained as specified by the county board of elections. The voter may not receive a replacement ballot until the spoiled or damaged ballot is returned to the precinct official. The voter shall not be given more than three replacement ballots.

(c) Except as provided for curbside voting in G.S. 163-166.9, official ballots shall not leave the voting enclosure during the time that voting is being conducted there.

*History Note:* Authority G.S. 163-22; 163-165.7;  
Temporary Adoption Eff. April 15, 2002;  
Eff. August 1, 2004;  
Readopted Eff. June 1, 2019.

**08 NCAC 04 .0305 INSTRUCTION OF PRECINCT OFFICIALS AND VOTERS IN THE USE OF VOTING SYSTEMS**

(a) The chair of the county board of elections in a county where a voting system is used shall conduct an instructional meeting before any primary or election to instruct the precinct officials in the use of the voting system. The chair may use any persons deemed knowledgeable or useful to the instruction of the precinct officials. The instructions on the use and operation of the voting system shall be according to manufacturer's instructions furnished with the voting system, whether the system is purchased or leased by the county board of elections. The training shall be sufficient such that the precinct officials shall be qualified to instruct the voters on the use of the voting system.

(b) The chair of the county board of elections shall not permit a voting system to be used in any precinct in any election unless the chair is satisfied that the precinct officials of the precinct have learned to use and operate the system in accordance with the manufacturer's instructions. The county board of elections may require that precinct officials receive additional instruction on the use and operation of voting systems.

(c) A voter may request instruction for the proper use of the voting system from a precinct official. The precinct official shall provide such technical instruction to the voter but shall not seek to influence or intimidate the voter in any manner.

*History Note:* Authority G.S. 163-22; 163-165.7;  
Temporary Adoption Eff. April 15, 2002;  
Eff. August 1, 2004;  
Readopted Eff. June 1, 2019.

**08 NCAC 04 .0306 DUTIES OF CUSTODIANS OF VOTING SYSTEMS**

(a) The chair of the county board of elections shall be responsible for the safekeeping, storage, maintenance and care of the voting system. The voting system shall be stored in a location such that access is restricted to county board of elections staff and the system cannot be tampered with when not in use on election day. The county board of elections may appoint as many persons as determined necessary for the maintenance, storage and care of the voting system and for

the preparation and testing of the voting system and delivery to the voting precincts preceding a primary or an election. Persons employed for this purpose shall be compensated for their services as authorized by the county board of elections.

(b) On election day when the system is used for voting purposes and until the chair of the county board collects the system, the voting system shall be under the supervision and control of the chief judge unless the county board of elections authorizes another elections official to have supervision and control.

*History Note: Authority G.S. 163-23; 163-165.7;  
Temporary Adoption Eff. April 15, 2002;  
Eff. August 1, 2004;  
Readopted Eff. June 1, 2019.*

#### **08 NCAC 04 .0307 TESTING OF VOTING SYSTEM BEFORE USE IN AN ELECTION**

(a) The county board of elections shall test, or supervise the testing, of each voting system or unit that will be used in the election to ensure that the system is operational and has been programmed to count votes accurately. For the purpose of this Rule, "accurately" means in accordance with the procedures for Logic and Accuracy Testing as outlined in the North Carolina State Topical Elections Processes and Procedures (STEPPS) manual. There shall be a record maintained along with the voted and unvoted ballots at the county board of elections office that shall include, at a minimum, the following information:

- (1) the dates, times and method of testing used;
- (2) the results of the test; and
- (3) the names of the persons conducting the test.

(b) Any interested person may observe the testing of the voting system but shall not interfere with or impede the process. For the purpose of testing a voting system prior to the purchase or lease of the system, testing at a one-stop absentee voting site shall fulfill the requirement to test the voting system in a precinct within the county.

*History Note: Authority G.S. 163-22; 163-165.7;  
Temporary Adoption Eff. April 15, 2002;  
Eff. August 1, 2004;  
Readopted Eff. June 1, 2019.*