

**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.*