



Legislation Text

File #: O-21-16, **Version:** 1

Title 4 - Elections - For the purpose of amending and updating Chapters 4.28 and 4.44 of the Code of the City of Annapolis concerning absentee voting and fair election practices; and matters generally relating to absentee voting and fair election practices.

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance 21-16 Amended

Introduced by: Alderman Littmann and Alderwoman Pindell Charles

Referred to

Board of Supervisors of Elections
Rules and City Government Committee

AN ORDINANCE concerning

Title 4 - Elections

FOR the purpose of amending and updating Chapters 4.28 and 4.44 of the Code of the City of Annapolis concerning absentee voting and fair election practices; and matters generally relating to absentee voting.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis,

2015 Edition

4.28.010

4.28.030

4.28.050

4.28.060

4.28.090

4.28.100

4.44.130

BY repealing the following portion of the Code of the City of Annapolis, 2015 Edition

4.28.110

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

Title 4 - ELECTIONS

Chapter 4.28 - ABSENTEE VOTING

Section 4.28.010 - ~~Qualifications~~ APPLICATION FOR ABSENTEE BALLOT.

~~A. A registered voter may vote by absentee ballot if:~~

- ~~1. The voter is absent for any reason from the City on any election day;~~
- ~~2. The voter is unable to vote in person on any election day because of observing a religious holiday;~~
- ~~3. The voter is an employee of the Elections Board, including any judge, who is required to be absent from the precinct in which the employee is registered to vote; or~~
- ~~4. The voter whose physical disability or confinement, illness or accident that are serious to cause confinement, will prevent the voter from being present and personally voting at the polls on any election day.~~

BA. A REGISTERED VOTER MAY VOTE BY ABSENTEE BALLOT. The voter shall make application for an absentee ballot as provided in this chapter. The application shall be filed in the office of the board not later than the close of business of 4:30 P.M. ON the ~~Tuesday~~ FRIDAY preceding any election. Upon receipt of the application, the board shall PROVIDE BY mail OR OTHER MEANS an absentee ballot to the voter entitled to the ballot.

4.28.030 - Emergency ballot.

- A. After the ~~Tuesday~~ FRIDAY preceding an election and on the day of the election prior to the time the polls close, any person registered and otherwise qualified to vote may apply for an emergency absentee ballot if the person is notified after the time for making application for an absentee ballot that, as a condition of employment, the person is required to be absent from the City on the day of an election, if ~~the person is one described in Section 4.28.010(A)~~, if the person is unable to be physically present at the polls as a result of illness or accident occurring after the time of making application for an absentee ballot, or if the person is unable to be present because of a death or serious illness in the person's immediate family occurring after the time for making application.
- B. The application shall be made setting forth the reason why the voter is unable to be present at the polls on the day of the election.
- C. Upon receipt of the application, the board, ~~if satisfied that the person, in fact, cannot be present at the polling place on the day of the election,~~ shall issue to the applicant, or the applicant's duly authorized agent, an absentee ballot which shall be marked by the voter, placed in a sealed envelope, and returned to the board.
- D. If the applicant does not apply in person, the application shall designate a voter registered in the City as agent for the purpose of delivering the absentee ballot to the voter. An agent may so act for only one voter per election. The agent shall execute an affidavit under penalty of perjury that the ballot was delivered to the voter who submitted the application, was marked by the voter in the agent's presence, was placed in a sealed envelope in the agent's presence, and returned, under seal, to the board by the agent. The agent's affidavit shall be completed and signed in front of the voter. The voter shall certify under penalties of perjury that the agent signed the affidavit in front of the other and when the agent

returns the affidavit of agent and oath of absentee voter to the board, the agent shall sign a form indicating that the agent personally secured that absentee vote and all requirements of the law were complied with in obtaining the absentee vote.

E. In applying for an emergency absentee ballot, a voter may be assisted by another person, but in casting an emergency ballot, only an election judge will assist the voter, as provided in Section 4.28.020.

F. Any emergency absentee ballot received by the board after the time for closing of the polls may not be counted.

~~G. GIVEN THE TIMING OF EMERGENCY ABSENTEE BALLOT APPLICATIONS, THE BOARD IS UNABLE TO NOTIFY THE VOTER PRIOR TO ELECTION DAY AS TO WHETHER SUCH EMERGENCY APPLICATION IS ACCEPTED OR REJECTED. THE VALIDITY OF ALL SUCH EMERGENCY APPLICATIONS SHALL BE DETERMINED AT THE CANVASS.~~

4.28.050 - Application-Form.

A. Printed forms of applications for absentee ballots in accordance with the requirements of this title shall be provided by the board and shall be available upon request to a registered voter who meets the qualifications set forth in Section 4.28.010. The board shall prescribe all forms and related affidavits and statements.

B. On the application, the board may require the voter to furnish information from which eligibility may be verified.

4.28.060 - Application-REVIEW AND Rejection.

~~Upon~~PROMPTLY AFTER receipt of an application, ANY MEMBER OF the board OR THE BOARD'S DESIGNATED STAFF OR THE ELECTION ADMINISTRATOR SHALL REVIEW ~~reject~~ the application ~~FOR COMPLETENESS~~. ~~only upon the unanimous vote of the board members present and voting provided that at least two members are present.~~ WhenIF an application is rejected, the board MEMBER OR ITS DESIGNEE OR THE ELECTION ADMINISTRATOR shall notify the applicant of the reason for the rejection if it determines, upon inquiry, that the applicant legally is not qualified to vote at the election as an absentee voter. THE APPLICANT SHALL BE NOTIFIED OF THE REJECTION AND REASONS FOR REJECTION AS SOON AS PRACTICABLE.

4.28.090 - Sending and return of APPLICATIONS AND ballots.

A. If the applicant is a registered voter per Section 4.16.020, the board, ~~as soon as practicable~~ after receipt of the application, shall deliver to the voter at the office of the board, or by ~~registered~~FIRST CLASS mail to the voter at an address designated by the voter, an absentee voter's ballot and an envelope for the ballot. Postage for transmitting ballot material to voters shall be paid by the board, and postage for the return of ballots shall be paid by the voters. If the ballots are to be sent by mail, the determinations required in Section 4.28.060 shall be made in such time as will allow for the sending and return of the ballots by regular mail or airmail, depending on the mailing address, and including at least one secular day for marking the ballots and completing the affidavit. All investigations shall be concluded and any determinations made as to all absentee ballot applications not later than five days before election day. THE DEADLINE FOR SUBMITTING AN APPLICATION FOR A BALLOT TO THE ELECTION

OFFICE IS 4:30 P.M. ON THE FRIDAY PRIOR TO THE PRIMARY OR GENERAL ELECTION.

- B. The board shall keep a record of applications for absentee voters' ballots, AS WELL AS THE BALLOTS ENVELOPES, as they are received, showing the date and time received, the names and residences of the applicants. The board shall also keep a record of the applications AND BALLOTS sent OR DELIVERED, including the name of registered voter to whom ballot is sent, address to which absentee ballot is sent, date absentee ballot sent, ~~certified mail receipt number associated with the applicable absentee ballot~~, number on the absentee ballot, and any other information the board determines is necessary to maintain integrity in the absentee ballot process. Those registered voters who present at the Board to pick up their ballot shall sign a statement that they have received their ballot, to be maintained by the board. These records shall be available for examination by any registered voter on written application to the board.
- C. After approval of an application for an absentee ballot and the mailingDELIVERY of an absentee ballot to the applicant, the voter may not vote or be allowed to vote in person at any polling place.
- D. Not more than one absentee ballot shall be mailedDELIVERED to any one applicant unless the board has reasonable grounds to believe that the absentee ballot previously provided has been lost, destroyed or spoiled.

4.28.100 - Canvassing of ballots.

- A. The board shall not open or unfold any provisional or absentee ballot at any time prior to the closing of the polls.
- B. At any time after the closing of the polls on election day and not later than the canvass of the votes cast at the regular voting places in the City, the board shall meet at the office of the board and shall proceed to count, certify and canvass the absentee ballots contained in the ballot envelopes.
- C. Timeliness of absentee ballots:
1. A ballot shall be considered as received timely, provided:
 - a. It has been received by the board prior to the closing of the polls on election day; or
 - b. It was mailed before election day, the United States Postal Service, or postal service of any other country, has provided verification of that fact by affixing a mark so indicating on the covering envelope, and the board receives the ballot from the United States Postal Service not later than the close of business on the Wednesday following election day.
 2. Any ballot received after the close of business on the first Wednesday following election day may not be counted.
 3. ~~PURSUANT TO THIS SECTION, ANY MEMBER OF THE BOARD OR THE BOARD'S DESIGNATED STAFF OR THE ELECTION ADMINISTRATOR, SHALL KEEP A RECORD OF ALL ABSENTEE VOTERS' BALLOTS AS THEY ARE RECEIVED, SHOWING THE DATE AND TIME RECEIVED.~~
- D. ALL BALLOTS ARE PRESUMED TO BE VALIDLY CAST, AND ALL VOTES ARE PRESUMED TO BE VALID AND SHALL BE COUNTED, NOTWITHSTANDING ANY DEFICIENCY IN THE

MANNER IN WHICH THE BALLOT AND/OR VOTE WAS SOUGHT, SENT OR PRESENTED TO APPROPRIATE OFFICIALS, AND NO BALLOT OR VOTE SHALL BE SET ASIDE UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE, AS UNANIMOUSLY DETERMINED BY THE BOARD OF CANVASSERS, THAT SAID BALLOT AND/OR VOTE WAS IMPROPERLY CAST.

- DE. A ballot may not be rejected by the board except by the unanimous vote of the board members present and voting, provided at least two members are present AND THAT THEY ARE NOT OF THE SAME MAJOR POLITICAL PARTY. This canvass shall be conducted by ward and precinct in accordance with the applicable provisions of this title. All voters' applications, medical certificates, notarial affidavits, certifications, ballot envelopes and ballots, to have voters' applications and all documentation kept separately from ballots cast in polling precincts, shall be kept separate and apart from ballots cast at the regular voting places and retained for six months after the date of election at which they were cast, unless, prior to that time, the board is ordered by a court of competent jurisdiction to keep the same for any longer period. The board may appoint those numbers of temporary judges as the board may deem necessary to adequately and promptly carry out the provisions of this section.
- EF. Any absentee ballot voted for a person who has ceased to be a candidate shall not be counted for that candidate but the vote shall not invalidate the remainder of the ballot.
- EG. If the absentee resident who marked a ballot dies before election day, the ballot shall be counted if the ballot is postmarked or received before the absentee resident's death, and the fact that the absentee resident later may be shown actually to have been dead on election day shall not invalidate the ballot or the election.
- GH. For the purposes of absentee ballots, if the board determines that the provisions for filling out and signing the oath on the outside of the ballot envelope substantially have been complied with and that the person signing the voter's oath is entitled to vote under this title in any precinct of the City, and already has not voted in the precinct on election day, they shall open the ballot envelope and remove the ballot and place it in a ballot box or ballot boxes prepared for that purpose. If an oath is unsigned, it is automatically excluded from the count. When any ballot envelope is opened, the board shall enter in the appropriate register the fact that the voter whose name appears on the envelope has voted, using the initials "A.B." to indicate the vote has been by absentee ballot. If there is more than one ballot in the ballot envelope, all shall be rejected. Absentee ballots may be marked by any kind of pencil or ink.
- HI. For the purposes of provisional ballots, if the board determines that the voter is entitled to vote under this title in any precinct of the City and has not already voted in the precinct on election day, they shall open the ballot envelope, remove the ballot and place it in a ballot box or ballot boxes prepared for that purpose. When any ballot envelope is opened, the board shall enter in the appropriate register the fact that the voter whose name appears on the envelope has voted, using the initials "P.B." to indicate the vote has been by provisional ballot. If there is more than one ballot in the ballot envelope, all shall be rejected. Provisional ballots may be marked by any kind of pencil or ink.
- IJ. If the board receives from the same person, prior to the deadline for receipt of absentee ballots, more than one absentee ballot, it shall count, certify and canvass only the absentee ballot contained in the ballot envelope on which the voter's oath was last executed, and if the oath on two or more of the ballot envelopes containing absentee ballots are dated the same or if both are undated, none of the ballots received from such persons shall be counted.

4.28.110 - Contests and appeals.

Contests relating to registration, voting or the validity of any absentee ballot shall be decided by the board. No registration shall be denied and no ballot rejected except by unanimous vote of the board members present and voting, provided at least two members are present AND THAT THEY ARE NOT OF THE SAME MAJOR POLITICAL PARTY.

Chapter 4.44 - FAIR ELECTION PRACTICES

4.44.130 - Prohibited practices.

A. A person shall not:

1. Directly or indirectly, personally or by another, give or offer or promise to any person any money, gift, advantage, preferment, aid, emolument or any valuable thing whatever, for the purpose of inducing or procuring any person to vote, or refrain from voting, for or against any person, or for or against any measure or proposition at any election;
2. Directly or indirectly, receive, accept, request or solicit from any person, candidate, committee, association, organization or corporation, any money, gift, advantage, preferment, aid, emolument, or any valuable thing whatsoever, for the purpose of inducing or procuring any person to vote, or refrain from voting, for or against any person, or for or against any measure or proposition at any election;
3. In consideration of any money, gift, advantage, preferment, aid, emolument, or any valuable thing whatsoever, paid, received, accepted, or promised to the advantage of that person or any other person, vote or refrain from voting for or against any person, or for or against any measure at any election;
4. Directly or indirectly, pay, give, contribute or promise any money or other valuable thing, to defray, or towards defraying the costs or expenses of any campaign or election, to any person, committee, company, organization or association, other than to a treasurer; however, this subsection does not apply to dues regularly paid for membership in any political club if all money expended by the club or in connection with the costs or expenses of any campaign or election will be paid out by the club only through a treasurer as provided in this chapter, or to volunteered time, personal vehicles, personal advertising or costs and expenses incident to the expression of personal views in accordance with the provisions of Section 4.44.060;
5. Directly or indirectly, personally or through another person, make a payment, or promise of payment, to a treasurer, or candidate, in any other name than the person's own; nor shall a treasurer or candidate knowingly receive a payment, or promise of payment, and enter the same or cause the same to be entered in the treasurer's accounts in any other name than that of the person by whom the payment or promise of payment is made;
6. Being an employer, pay one's employees the salary or wages due in "pay envelopes," upon which there is written or printed or in which there is enclosed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of the employees, or within ninety days of an election put, or otherwise exhibit in the establishment or place where one's employees are engaged in labor, any handbill or placard containing any threat, notice or information that if any particular ticket or candidate is elected or defeated, work in one's place or establishment will cease, in whole or in part, the

establishment be closed up or the wages of one's employees reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of one's employees;

7. Publish or distribute ~~or cause to be published or distributed~~ BY ANY WRITTEN OR ELECTRONIC MEANS INCLUDING BUT NOT LIMITED TO any pamphlet, circular, card, sample ballot, dodger, poster, advertisement or any printed, multigraphed, photographed, typewritten or written matter or statement or any matter or statement which may be copied by any device or method now known for printing or copying or which may be used for making copies or printed or written matter in any form whatever for publication or distribution, relating to or concerning any candidate, including a write-in candidate, or prospective candidate for public or party office or for the acceptance or defeat of any proposition unless the pamphlet, circular, card, sample ballot, dodger, poster, advertisement or other form of publication described in this subsection clearly indicates the name of the candidate or committee responsible for the literature and contains, but set apart from the name of the candidate or committee, an authority line which includes the name and address of the person, treasurer or campaign manager responsible for the publication or its distribution; except, that if the person, treasurer or campaign manager has furnished the address to the appropriate board, the literature need not contain an address, except that this paragraph does not apply to a person exercising the rights described in Section 4.44.060;
8. Being a candidate, make any payment, contribution, expenditure or promote or incur any liability to pay, contribute or expend from personal financial resources any money or thing in value in excess of that authorized by this chapter;
9. Contribute, in any one election cycle, any money, ~~professional services~~ or tangible thing of value greater than:
 - a. One thousand dollars to any candidate for Alderman; and
 - b. Two thousand five hundred dollars to any candidate for Mayor.

B. Exceptions. Contributions by a candidate to the candidate's own campaign are exempted from the limitations set forth in this section.

C. Every person who is guilty of any prohibited practices described in this section shall be punished as provided in Chapter 1.20 of this code for a misdemeanor, and shall be ineligible for any public or party office, for the period of four years from and after the time of the commission of the offense.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect from the date of its passage.

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates amendments