



Legislation Details (With Text)

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**File created:** 6/16/2016      **In control:** City Council

**On agenda:** 7/25/2016      **Final action:** 7/25/2016

**Title:** Elections Code Updates - For the purpose of amending and updating Chapters 4.08; 4.20; 4.24; 4.32; 4.40 and 4.44 of the Code of the City of Annapolis concerning polling places; nominations and candidacy; voting and voting machines; board of canvassers; ballot question procedures; and matters generally relating to these amendments and updates.

**Sponsors:** Ross Arnett

**Indexes:** Rules and City Government Committee

**Code sections:**

**Attachments:** 1. O-27-16 Elections Code Updates.pdf, 2. O-27-16 Staff Report.pdf, 3. O-27-16 Fiscal Impact.pdf, 4. O-27-16 SIGNED.pdf

| Date      | Ver. | Action By                         | Action                            | Result |
|-----------|------|-----------------------------------|-----------------------------------|--------|
| 7/25/2016 | 1    | City Council                      | adopt on second reader            | Pass   |
| 7/12/2016 | 1    | Rules & City Government Committee | recommend favorably               | Pass   |
| 7/11/2016 | 1    | City Council                      | declare the public hearing closed |        |
| 6/24/2016 | 1    | City Council                      | adopt on first reader             | Pass   |
| 6/24/2016 | 1    | City Council                      | refer                             |        |

**Elections Code Updates** - For the purpose of amending and updating Chapters 4.08; 4.20; 4.24; 4.32; 4.40 and 4.44 of the Code of the City of Annapolis concerning polling places; nominations and candidacy; voting and voting machines; board of canvassers; ballot question procedures; and matters generally relating to these amendments and updates.

**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance 27-16**

**Introduced by: Alderman Arnett**

**Referred to**  
Rules and City Government Committee

**AN ORDINANCE** concerning

**Elections Code Updates**

**FOR** the purpose of amending and updating Chapters 4.08; 4.20; 4.24; 4.32; 4.40 and 4.44 of the Code of the

City of Annapolis concerning polling places; nominations and candidacy; voting and voting machines; board of canvassers; ballot question procedures; and matters generally relating to these amendments and updates.

**BY** repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2015 Edition

- 4.08.100
- 4.08.110
- 4.20.030
- 4.20.050
- 4.24.010
- 4.24.030
- 4.24.170
- 4.32.010
- 4.32.040
- 4.40.080
- 4.44.100

**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:

**Chapter 4.08 - BOARD OF SUPERVISORS OF ELECTIONS**

**4.08.100 - Polling places.**

The board shall arrange for, and the City Council, where practicable, shall provide a suitable polling place that is:

- A. Used by the County;
- B. WHERE ONLY ONE POLLING PLACE IS PROVIDED IN A WARD, AS NEAR TO THE CENTER OF THE VOTING POPULATION OF THAT WARD AS POSSIBLE;
- C. WHERE A POLLING PLACE IS PROVIDED BY PRECINCT, As near to the center of the voting population of each OF THAT precinct as possible; and
- CD. To the extent practicable, IN libraries, schools, churches, fire halls, or any other PUBLIC building that is used by the public in general.

**4.08.110 - New polling places-Changed polling places.**

- A. From time to time the board may designate new polling places in any precinct OR WARD or change the location of any existing polling place.
- B. Except in emergencies a new polling place may not be designated, nor may the location of an existing polling place be changed, after the Tuesday which is thirteen weeks prior to any primary election. Where possible and feasible, the polling places utilized for the immediately preceding presidential election shall be used.
- C. Whenever the board designates a new polling place or changes the location of an existing polling place, it shall:
  - 1. Provide for and cause to be prepared additional sets of cards or loose-leaf pages as may be required for transcribing the names of registered voters transferred to such newly established polling place in any precinct, and to correct and transfer the registration forms or cards of the registered voters affected by

- the change;
2. ~~Except in emergencies, notify~~ SEND NOTIFICATION BY MAIL TO the voters affected by the change:  
by mail
    - (a) within thirty days after the change IS MADE, IF THE CHANGE IS MADE BETWEEN THIRTEEN AND TWENTY-SIX WEEKS PRIOR TO THE PRIMARY ELECTION.
    - (b) WITHIN SIXTY DAYS AFTER THE CHANGE IS MADE, IF THE CHANGE IS MADE MORE THAN TWENTY-SIX WEEKS PRIOR TO A PRIMARY ELECTION.
  3. In cases of emergency, the board shall notify the voters affected by the change of polling place by whatever means are reasonable, as determined by the board. A voter's registration may not be invalidated by the alteration or transfer, nor shall the right of any voter be prejudiced by any error in filing or in making out the list of voters or in making any change or transfer.

## Chapter 4.20 - NOMINATIONS AND CANDIDACY

### 4.20.030 - Certificate of candidacy-Filing.

"Candidate" means an individual who seeks nomination for ANY MUNICIPAL election; ~~or election, to City office or election to a party office.~~ An individual becomes a candidate for office whenever any of the following occurs during an election cycle:

- A. A ~~C~~certificates of candidacy shall be filed under oath with the board.
- B. Except for certificates of candidacy filed by write-in candidates and as otherwise provided in this chapter, A certificates of candidacy FILED UNDER OATH shall be received BY THE BOARD ~~and filed in the office of the board~~ not later than nine p.m. on the Monday which is seven weeks before the day on which the primary election should be held under the primary election law. If the filing date should occur on a legal holiday, THEN ~~the~~A certificates OF CANDIDACY ~~must~~SHALL be received ~~and filed~~ BY THE BOARD not later than nine p.m. on the next regular business day which is not a legal holiday.
- C. ~~All persons except write-in candidates shall file their certificates of candidacy in person within the time specified by Subsection B of this section and at the place specified in this section. In the event that any person wishing to file a certificate of candidacy is unable to do so in person by reason of illness, or absence from the State for employment reasons for a period of one hundred twenty continuous days, that person shall file an affidavit setting out fully the facts as prevent that person from personally filing the certificate of candidacy and such affidavit must be filed with the certificate of candidacy.~~
- DC. ~~The~~AN individual has received contributionS aggregating in excess of three hundred dollars or made expenditures aggregating in excess of three hundred dollars.
- ED ~~The~~AN individual has given consent to another person to receive contributions ~~or~~ make expenditures on behalf of that individual and such person has received contributions aggregating in excess of three hundred dollars or made expenditures aggregating in excess of three hundred dollars.
- FE. After written notification by the board of ~~Supervisors of Elections~~ that any other person has received contributions aggregating in excess of three hundred dollars or made expenditures aggregating in excess of three hundred dollars on the individual's behalf, the individual fails to disavow such activity by letter to the ~~Supervisors of Elections~~BOARD in care of the City Clerk within thirty days ~~of~~ AFTER receipt of the notification.
- GF. The aggregate of contributions received under Subsections AB., BC., and CD. of this section, in any combination thereof, exceeds three hundred dollars or the aggregate of expenditures made under Subsections AB., BC., and CD. of this section exceeds three hundred dollars.

- G. THE FIRST DATE UPON WHICH A CERTIFICATE OF CANDIDACY MAY BE OBTAINED AND FILED IS ONE YEAR PRIOR TO THE DEADLINE TO FILE A CERTIFICATE OF CANDIDACY, AS DESCRIBED BELOW IN PARAGRAPH H.
- H. ALL PERSONS EXCEPT WRITE-IN CANDIDATES SHALL FILE THEIR CERTIFICATE OF CANDIDACY IN PERSON WITHIN THE TIME SPECIFIED BY SUBSECTION B OF THIS SECTION AND AT THE PLACE SPECIFIED IN THIS SECTION. IN THE EVENT THAT ANY PERSON WISHING TO FILE A CERTIFICATE OF CANDIDACY IS UNABLE TO DO SO IN PERSON BY REASON OF ILLNESS, OR ABSENCE FROM THE STATE FOR EMPLOYMENT REASONS FOR A PERIOD OF ONE HUNDRED TWENTY CONTINUOUS DAYS, THAT PERSON SHALL FILE AN AFFIDAVIT SETTING OUT FULLY THE FACTS PREVENTING THAT PERSON FROM PERSONALLY FILING THE CERTIFICATE OF CANDIDACY AND SUCH AFFIDAVIT MUST BE FILED WITH THE CERTIFICATE OF CANDIDACY.

#### 4.20.050 - Filing fees.

- A. Each candidate for nomination to public office at any primary election shall pay a nonrefundable fee as established by resolution of the City Council.
- B. All payments shall accompany the certificate of candidacy and shall be made payable to the City.
- C. All candidates nominated in a manner other than by primary election, whether or not their names appear on the primary ballot, shall pay the filing fee in accordance with the provisions of this section for the respective office which they seek.
- D. FILING FEES MAY BE PAID BY CHECK, MONEY ORDER, OR ELECTRONIC MEANS. PAYMENTS SHALL BE SUBMITTED NO LATER THAN 4:00 P.M., MONDAY THROUGH FRIDAY, AT THE FINANCE OFFICE.
- DE. If a candidate pays a filing fee THAT IS RETURNED OR REJECTED FOR INSUFFICIENT FUNDS AND CANNOT BE RESOLVED WITH GOOD FUNDS PRIOR TO THE 9:00 P.M. CLOSING TIME FOR FILING A CERTIFICATE OF CANDIDACY, ~~with a check which is returned for insufficient funds,~~ the candidate's name may not be placed on the ballot.
- EF. IN CIRCUMSTANCES WHERE A CANDIDATE SEEKS A FILING FEE WAIVER, BEFORE A WAIVER MAY BE GRANTED BY THE BOARD, THE CANDIDATE SHALL SUBMIT A SWORN STATEMENT CONCERNING THE CANDIDATE'S FINANCIAL CONDITION. THE BOARD MAY CONDUCT A REASONABLE INVESTIGATION OF THE FACTS CONTAINED IN THE SWORN STATEMENT AND IF CONVINCED THAT THERE IS FINANCIAL HARDSHIP, THE BOARD SHALL GRANT A WAIVER. ~~If a candidate establishes an inability to pay the fee, it shall be waived by the board. The board will require a candidate to file a sworn statement concerning the candidate's financial condition and may conduct an investigation of a candidate's financial status.~~

### Chapter 4.24 - VOTING AND VOTING MACHINES

#### 4.24.010 - Policing.

Each of the CHIEF jJudges has the authority to keep the peace and to cause any person to be arrested for any breach of the peace, or for any breach of the election laws, or any interference with the progress of an election, the canvass of the ballots or the ascertainment and transcription of the votes recorded on the approved voting devices. It shall be the duty of all officers of the law present to obey the order of any CHIEF jJudge, and an officer making an arrest by the direction of any CHIEF jJudge shall be protected in so doing fully as if a

warrant had been issued to that officer to make such arrest.

#### **4.24.030 - Challengers and watchers.**

- A. Each candidate, political party or other body of voters having a candidate, candidates, principal or proposition appearing on the ballot, shall have the right to designate a registered voter as a challenger and watcher at each place of registration and election. Challengers and watchers shall be assigned to a position near the judges, inside the registration or polling room, as to enable them to observe and hear the name of each person as the person offers to register or vote. They shall be protected in the discharge of their duty by the judges and the police, but a judge is not required to assist any watcher or challenger in the performance of the watcher's or challenger's duties.
- B. A certificate signed AND DATED by any party or candidate shall be sufficient evidence of the right of any challenger and watcher to be present in the registration or polling room. THE CERTIFICATE FORM AS DESCRIBED IN PARAGRAPH G OF THIS SECTION, SHALL BE PRESENTED TO THE CHIEF JUDGE IMMEDIATELY UPON ENTRY TO THE POLLING OR REGISTRATION LOCATION.
- C. A challenger or watcher has the right to enter the polling place one-half hour before the opening of the polls. A challenger or watcher has the right to enter or be present at the polling place at any time the polls are open, and may remain in the polling place until the returns are completed.
  1. A CHALLENGER OR WATCHER MAY MAINTAIN A LIST OF REGISTERED VOTERS WHO HAVE VOTED, OR INDIVIDUALS WHO HAVE CAST PROVISIONAL BALLOTS, AND TAKE THE LIST OUTSIDE OF THE POLLING PLACE; AND
  2. A CHALLENGER OR WATCHER MAY TEMPORARILY LEAVE A POLLING PLACE FOR THE PURPOSE OF SEEKING INFORMATION THAT IDENTIFIES REGISTERED VOTERS WHO HAVE CAST BALLOTS OR INDIVIDUALS WHO HAVE CAST PROVISIONAL BALLOTS.
- D. It is unlawful for any challenger OR WATCHER to inquire or ascertain for which candidate any voter intends to vote, or has voted, or to converse in the polling place with any voter or to assist any voter in the preparation of the voter's ballot or in the operation of the voting machine OR TO PHYSICALLY HANDLE AN ORIGINAL ELECTION DOCUMENT. Any challenger OR WATCHER who violates the restrictions of this subsection may lawfully be ejected by the CHIEF judges OF A POLLING PRECINCT and is subject to the punishment provided for in this title.
- E. A challenger or watcher may be removed at any time by the same person who appointed the challenger or watcher.
- F. Persons other than accredited challengers or watchers who desire to challenge the vote of any person shall be permitted to enter the polling place for that purpose, but a majority of the judges may limit the number of persons to be allowed in the polling place at any one time for that purpose; and all of these persons shall leave the polling place as soon as the right to vote of the person challenged by them has been decided.
- G. The form for the certificate of a challenger and watcher shall be supplied by the board, party, candidate or other organization and shall be on a form prescribed by the board. THE BOARD SHALL INCLUDE IN THE PRESCRIBED FORM, THE RESTRICTIONS CONTAINED IN THIS SUBSECTION AND PUNISHMENT PROVIDED FOR IN THIS SUBSECTION IN THE EVENT OF NON-COMPLIANCE.
- H. While at a polling place, a challenger or watcher shall wear an identification badge approved by the board.

#### **4.24.170 - Time allowed for voting.**

No voter shall remain within the voting machine booth longer than ~~two~~ FIVE minutes, if there are other voters awaiting an opportunity to register their vote, except that an additional one minute shall be allowed for each Charter amendment and referendum to be voted upon. However, before requiring any voter who has

remained beyond the time permitted by this section to leave the voting machine booth, an election judge of each political party shall offer the voter the opportunity to receive assistance as may be permitted by Section 4.24.160(D). The time for voting permitted by this section shall be extended as necessary to allow the rendering of assistance as permitted by this section or Section 4.24.160.

## **Chapter 4.32 - BOARD OF CANVASSERS**

### **4.32.010 - Organization-Oath-Sessions.**

On the ~~day~~TUESDAY following every primary, general or special election, the Board of Elections shall be reconstituted as the Board of Canvassers and shall meet at the office of the Board. The Board of Canvassers shall elect a chair and secretary from their number. Each member of the Board of Canvassers shall recite an oath, under the penalty of perjury, to truly canvass, add up and declare the votes as required by law. The Board of Canvassers has the same powers as the Board of Supervisors of Elections. All questions arising in the course of their proceedings shall be determined by a majority of the canvassers. All the sessions, deliberations and proceedings of the Board of Canvassers shall be public. All candidates and their counsel shall have the right to attend and inspect the original statements and returns, and all other documents and records.

### **4.32.040 - Verification of voting machines.**

#### **A. Procedure:**

1. The ~~day~~TUESDAY after each election, the board, as a part of its canvass, shall verify the votes cast on the voting machines. The ~~day~~TUESDAY after the general election, the board shall inspect for votes cast for write-in candidates, and a tabulation of all the votes cast shall become a part of the official canvass. The board shall verify the votes cast as shown by the print-outs of each machine used in each precinct in each election according to the technology used. The verification shall be open to the public.
  2. Upon completion of verification, the members of the board shall sign a certification that every counter used in the election has been canvassed and verified.
  3. At the time of submitting the certified copies of returns, the board shall furnish a copy of the certification.
- B. If upon verification, it is found that the original returns incorrectly have been made from any machine or machines, a statement in writing shall be prepared, giving in detail as to each machine, the result of the verification. The statement shall be witnessed by the persons present and shall be filed with the other returns of the election. This return then shall supersede the returns filed by the judges of the precinct in which the unofficial count was made.
- C. If during the verification, any discrepancy cannot be reconciled, the board, after the expiration of the time within which petition for recount may be made, shall provide an examination and test of the machine to determine the cause, if any, of the discrepancy in the returns from the machine and shall notify each candidate of the time and place of the examination and test.

## **Chapter 4.40 BALLOT QUESTION PROCEDURES.**

### **4.40.080 - Publication of questions.**

- A. To the extent not otherwise provided by State law, the board shall advertise the title and a concise statement, prepared by the City Attorney, of every question to be submitted for approval of the voters at the same time and in the same manner as is required for the election of candidates at the general election.
- B. The complete text of any question shall be made available ON THE CITY WEBSITE for public inspection AND SHALL BE AVAILABLE in the office of the board during normal business hours for

thirty days preceding the election at which the question is to be voted upon.

**4.44.100 - Reporting deadlines-Failure to file.**

- A. A person may not become a candidate for public or party office in any election in the City, a certificate of candidacy may not be accepted on a person's behalf, and a person may not become a treasurer for a candidate or committee unless the person has filed or had filed on the person's behalf all reports or statements required by Section 4.44.080 and Subsection C of this section to be filed by that person, as a candidate, chair or treasurer, during the five calendar years preceding the election in which the person seeks to become a candidate or treasurer.
- B. A late filing fee shall be assessed for forms not filed pursuant to Section 4.44.080 of this Code.
  - 1. For pre-election reports and affidavits not timely filed, a fee of twenty dollars shall be assessed each day for the first six days and ten dollars each day thereafter.
  - 2. For post-election reports not timely filed, a fee of ten dollars shall be assessed each day.
  - 3. The maximum assessable fee shall be two hundred fifty dollars per report and shall be computed from the day immediately following the due date and include the day of filing.
  - 4. Fees assessed under this subsection shall not be paid directly or indirectly from campaign funds and shall constitute a personal liability of the candidate and treasurer if the campaign finance entity is a personal treasurer or chairman and treasurer for all other campaign finance entities.
- C. For the purposes of this section, the failure to provide all of the information called for on the forms prescribed pursuant to Section 4.44.090, to the extent applicable, is a failure to file under Section 4.44.100B of this Code if the board has notified the candidate and treasurer, or chairman and treasurer, in writing, of the particular deficiencies and a properly corrected report has not been filed within thirty days of service of notice. After the thirtieth day, and in the absence of a filed corrected report, all sanctions provided for in this section and in Section 4.48.210 shall be applicable without the necessity of further notice to the candidate, chair or treasurer under this subsection or Subsection B. of this section.
- D. A person may not be deemed elected to any public or party office in this City, or enter upon the duties of the office or receive any salary or emoluments from the office, until all of the reports and statement of contributions and expenditures required to be filed by the person pursuant to Section 4.44.080 of this Code have been filed and assessed fees paid. A candidate may not be sworn in until the board certifies that all the reports and statements required by those sections have been filed and assessed fees paid.
- E. The provisions of this section, and the provisions of Section 4.44.080 with respect to the filing of reports or statements, are mandatory and not directory. However, a candidate may not be disqualified for failure to file a report or statement if the failure is found by a court of competent jurisdiction to be for just cause.

**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