

# Southern Coalition for Social Justice



VIA EMAIL ([rulemaking.sboe@ncsbe.gov](mailto:rulemaking.sboe@ncsbe.gov))

TO: North Carolina State Board of Elections  
Francis X. De Luca, Chair  
Stacy “Four” Eggers IV, Secretary  
Jeff Carmon, Member  
Siobhan O’Duffy Millen, Member  
Angela Hawkins, Member

CC: Sam Hayes, Executive Director  
Tim Hoegemeyer, General Counsel  
Adam Steele, Deputy General Counsel

June 5, 2026

***Re: Public Comment on Proposed Voting Site Rules 08 NCAC 10C .0101-.0104***

Dear Members of the State Board of Elections,

Southern Coalition for Social Justice and ACLU-NC write pursuant to the State Board of Elections’ invitation to provide public comment on proposed permanent rules related to voting sites (Proposed Rules 08 NCAC 10C .0101–.0104) (hereafter the “Proposed Rules”).<sup>1</sup>

We submit these comments based upon extensive experience working with voters and voter-engagement organizations to protect the right of all North Carolinians to access the franchise. We therefore have a deep understanding that the rules regarding voting site conduct can significantly impact whether elections occur in ways that ensure voter safety and the safety of election workers alike. We likewise understand the crucial role played by on-site voter engagement organizations to combat voter suppression and intimidation, encourage voter turnout, and ensure an informed electorate. Our comments are therefore offered with the dual goals of preserving peace at the polls while also preserving First Amendment rights of individuals to engage in protected election-related speech and activities to engage voters in our electoral process.

---

<sup>1</sup> See *Rulemaking*, N.C. State Bd. of Elections, <https://www.ncsbe.gov/about-elections/legal-resources/rulemaking> (last visited June 3, 2026).

## **Proposed Rule 08 NCAC 10C. 0104 – Conduct at Voting Sites**

Proposed Rule 08 NCAC 10C .0104 concerns the power of chief judges and judges of elections to address noise and sound being made at voting sites. The proposed rule cites to N.C.G.S. § 163-48 and 08 NCAC 10B .0101, both of which require a precinct’s chief judge and judges to “enforce peace and good order in and about the place of registration and voting.” Examples of behavior that would threaten peace and good order, according to North Carolina law, include “attempts to obstruct, intimidate, or interfere with any person in registering or voting.” N.C.G.S. § 163-48.

The proposed rule purports to apply not only to people “on a portion of the voting site property that is subject to the control of the county board of elections,” but also to anyone off the property of the voting site that is making noise audible inside the voting enclosure, “regardless of their location.”

While we understand the intent of these rules is to prevent voter intimidation and interference, as drafted, these provisions are far too overbroad. They risk the unnecessary chilling of First Amendment protected speech, including speech that educates and engages voters at voting sites and adjacent areas, and are likely to result in non-uniform application throughout North Carolina’s various voting sites. Our specific concerns are outlined below.

### **1. Proposed rule 08 NCAC 10C .0104 impermissibly restricts protected speech to designated electioneering zones.**

Section 163-166.4 of North Carolina’s General Statutes prescribes the statutory limitations on activities in and around voting places. It requires county boards to prescribe a protective “buffer zone” around voting places of 25 to 50 feet, prohibiting individuals from engaging in election-related activity in this area. Importantly, these statutory restrictions on election-related activity *only* apply to the designated buffer zone, not the entire area of the voting site. N.C.G.S. § 163-166.4(a). Separately, the law requires county boards to guarantee there will be an area for election-related activity directly adjacent to the buffer zone. N.C.G.S. § 163-166.4(b). In other words, applicable law sets a *minimum* area that must be provided for election-related activities outside of polling places by requiring the creation of an electioneering zone adjacent to the buffer zone and only disallowing electioneering within the buffer zone itself.<sup>2</sup>

In this way, the General Statutes are consistent with federal protections implicated in restrictions on speech at or near voting sites. The Supreme Court has noted that voting sites<sup>3</sup> may include areas that are considered “traditional public forums,” such as parks, streets, and sidewalks. Laws creating buffer zones that are not overly large (like those prescribed in North Carolina) are permissible when tailored to achieve the state’s interest in running elections free from intimidation and fraud. But this does not allow sweeping restrictions on speech around voting sites because, “[a]t some

---

<sup>2</sup> Special agreements disallowing electioneering zones for voting places at nonpublic buildings are only permitted when (1) “no other suitable voting place can be secured for the precinct;” (2) the chief judge monitors the area surrounding the voting place to ensure that the restriction on electioneering is applied evenly; (3) the voting places subjected to the agreements do not disproportionately favor any party, race, or candidate; and (4) the county board attempted to arrange a time for candidates to place and retrieve advertisements before opening and after closing the polling place.

<sup>3</sup> Proposed Rule 08 NCAC 10C .0101(9) defines “voting site” as “the property on which the voting place is located.”

measurable distance from the polls, of course, governmental regulation of vote solicitation could effectively become an impermissible burden [on speech].” *Burson v. Freeman*, 504 U.S. 191, 210 (1992).

The Proposed Rules as drafted erroneously convert the *minimum* requirements that county boards provide a buffer zone and ensure adjacent space for electioneering to an unlawful *blanket restriction* on electioneering at the voting site outside a designated area.

Proposed Rule 08 NCAC 10C .0104(b) impermissibly provides that “[p]ersons at a voting site shall *only* engage in election-related activities while in the designated electioneering zone” (emphasis added). As defined in proposed rule 08 NCAC 10C .0101 the “electioneering zone” is “the area designated by a county board of elections where the activities under G.S. 163-166.4(b) *are permitted* at a voting site” (emphasis added). In other words, instead of ensuring the minimum requirement of an electioneering zone adjacent to the buffer zone as provided in the General Statutes, these Proposed Rules unlawfully require county boards to limit protected activities from occurring anywhere except for the designated electioneering zone.

We recommend that, instead of adopting conflicting administrative rules, the State Board continue to follow the current statutory framework set forth in N.C.G.S. § 163-166.4 and utilize the guidance in Numbered Memo 2022-12 explaining these provisions.<sup>4</sup>

If the Board decides to still adopt the Proposed Rules, they must be amended to reflect what is explicitly provided in North Carolina law and what is guaranteed by federal constitutional protections. We recommend amending the proposed definition in 08 NCAC 10C .0101(4) as follows:

(4) “Electioneering zone” means the area adjacent to the buffer zone designated by a county board of elections ~~where the activities as required~~ under G.S. 163-166.4(b) are permitted at a voting site.

We likewise recommend amending proposed rule 08 NCAC 10C .0104(b) to make clear that election-related speech may also occur outside of the electioneering zone so long as it also occurs outside of the buffer zone.

(b) Persons at a voting site shall ~~only engage in election-related activities while in the designated electioneering zone~~ not engage in election-related activities while in the designated voting place buffer zone or the curbside buffer zone.

Additionally, the Proposed Rules do not define “election-related activities,” which may leave the term open to inconsistent interpretation by chief judges and judges of elections.<sup>5</sup> We therefore recommend adding a definition of “election-related activities” to 08 NCAC 10C .0101, in line with the activities described in N.C.G.S. § 163-166.4(b):

<sup>4</sup> See Numbered Memo 2022-12 at 2, available at <https://www.ncsbe.gov/blog/2022/10/07/numbered-memo-2022-12-maintaining-order-polls> (“Buffer Zone Protections”).

<sup>5</sup> See *Minn. Voters All. v. Mansky*, 585 U.S. 1, 21–22 (2018).

(10) “Election-related activities” means the distribution of campaign literature, placement of political advertising, solicitation of votes, and other related activity.

Finally, the Proposed Rules should all include language making clear that nothing in the rule is intended to prohibit First Amendment protected activities from taking place in any traditional public forum.

**2. The provisions regulating noises and sounds are impermissibly vague, beyond what is required under North Carolina law to maintain order at the polling place, and risk overbroad, discriminatory, and potentially chilling enforcement.**

North Carolina law and administrative rules already outline the obligations of elections staff to ensure peace and good order at voting sites. North Carolina General Statute § 163-47 outlines the powers and duties of chief judges and judges of elections. First among those is the duty to “conduct the primaries and elections within their respective precincts fairly and impartially,” and to “enforce peace and good order in and about the place of registration and voting.” N.C.G.S. § 163-47(a). Section 163-48 of the General Statutes further describes how “peace and good order” shall be maintained by chief judges and judges of elections: “[1] They shall especially keep open and unobstructed the place at which voters or persons seeking to register or vote have access to the place of registration and voting. [2] They shall prevent and stop improper practices and attempts to obstruct, intimidate, or interfere with any person in registering or voting. [3] They shall protect challenger and witnesses against molestation and violence in the performance of their duties, and they may eject from the place of registration or voting any challenger or witness for violation of any provisions of the election laws. [4] They shall prevent riots, violence, tumult, or disorder.”

Current administrative Rule 08 NCAC 10B .0101 provides additional guidance, directing precinct officials to “monitor the grounds around the voting place to ensure compliance with the limitation on activity in the buffer zone,” and providing examples of how they can ensure peace and good order that mirror N.C.G.S. § 163-48.

The Proposed Rules, and specifically 08 NCAC 10C .0104(c), go far beyond the statutory powers of precinct officials in how they regulate sound near voting sites. For example, Subsection (c)(1) prohibits anyone “outside of the voting place at a voting site during the hours of voting” from making “any noise at a volume that is audible to the chief judge or a judge when that official is in the voting enclosure” (emphasis added). If a chief judge or judge determines that a person has made a noise violating the proposed rule, they must require the person to decrease the volume so that it is no longer audible in the voting enclosure. Subsection (c)(2) prohibits the use of any “sound amplification device” “outside of the voting place at a voting site” during voting hours. A chief judge or judge must require a person using a sound amplification device in violation of the rule to stop using the device and remove it from the voting site.

These broad prohibitions on any sound audible within the voting enclosure, and any sound amplification at a voting site appear to apply regardless of source, volume, or whether they in fact disrupt peace and good order in the voting process. They reach far beyond the specific prescriptions of North Carolina law designed to protect voters and instead extend into regulating what may be legitimate and necessary protected activities at voting sites. Additionally, the overbroad language

of the Proposed Rules in regulating sound lacks clear standards for enforcement, which creates a risk of a non-uniform application of these rules throughout North Carolina’s many voting sites, and a risk of chilling the First Amendment rights of individuals to engage in protected speech, as detailed below.

*a. Prohibition on any noise that is audible within the voting enclosure is overbroad.*

While the State Board and election officials may reasonably regulate some speech within voting enclosures to prevent voter disruption, the prohibition in the proposed rule on any noise that is merely “audible” within a voting enclosure is much too broad and risks misapplication or abuse by overzealous election officials and discriminatory application against certain speech. The rule must therefore be amended to provide clearer standards about what speech actually disrupts peace and good order at the voting site.

For example, noises entirely unrelated to the ongoing election are likely to be audible within some voting enclosures across the state; a car horn in the parking lot, street noise on a nearby road, or construction in an adjacent building are all potentially audible within a voting enclosure but probably do not prevent a voter from “peacefully contemplate[ing] their choices.”<sup>6</sup> Such noises are also beyond the scope of the behaviors outlined in N.C.G.S. § 163-48, because they do not obstruct a voter from casting a ballot or registering, nor do they intimidate a voter. But under the proposed rule as drafted, these kinds of noise could prompt a chief judge to call law enforcement to a voting site, disrupting the voting process with the risk of discouraging voters from engaging in the voting process.<sup>7</sup> For sounds originating from remote locations, this intervention could also conflict with the powers of chief judges and judges of elections as defined in N.C.G.S. § 163-47 to ensure good order “in and about the place of registration and voting” but not beyond.

Moreover, the lack of clear standards as to what noise is loud enough to be disruptive leaves room for inconsistent enforcement by chief judges, who may (without more guidance) decide that some speech outside the voting enclosure is too loud while other speech is not, or alternatively, decide that *any* sources of noise and sound on site must be removed so as to not have to attempt to referee which is too loud amongst competing electioneering groups.

These overbroad Proposed Rules also run afoul of bedrock constitutional principles protecting the right to free speech. While the Supreme Court has found that voting enclosures themselves are nonpublic forums within which speech may be regulated, such regulations must be “reasonable” and “not an effort to suppress expression merely because public officials oppose the speaker’s view.”<sup>8</sup> A state’s restriction on some defined forms of advocacy in a voting enclosure may be permissible to achieve a state’s goal of maintaining “an island of calm” inside the voting

---

<sup>6</sup> *Manksy*, 585 U.S. at 15.

<sup>7</sup> See Numbered Memo 2022-12 at 5–6, available at <https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2022/Numbered%20Memo%202022-12%20Maintaining%20Order%20at%20the%20Polls.pdf> (“The presence of law enforcement officers at a voting site must always be balanced against the potential for some voters to feel intimidated if law enforcement is perceived as monitoring voters.”).

<sup>8</sup> *Manksy*, 585 U.S. at 7–8 (citing *Perry Ed. Assn. v. Perry Local Educators’ Assn.*, 460 U.S. 37, 46 (1983)).

enclosure.<sup>9</sup> However, the regulations cannot be so overbroad that there is an “opportunity for abuse” due to lack of clear guidance on enforcement.<sup>10</sup> Therefore, regulations must provide some “objective, workable standards” that allow for consistent enforcement.<sup>11</sup>

We therefore recommend that the State Board continue to adhere to the statutory framework for maintaining order at polling locations described above and as explained in Numbered Memo 2022-12. If the Board decides to adopt the Proposed Rules, it must at least provide clarification of what noise may disrupt peace and good order at polling sites, such as decibel limits and consideration of whether the noise is ongoing or temporary (like those provisions included in many local ordinances), and whether the noise is intended to disrupt the voting process. We also recommend providing training for poll workers, election officials, and the county boards about what noise is permissible so that the proposed rule is evenly applied across all counties and voting locations, and training on de-escalating potential noise disturbances before law enforcement is engaged as recommended in Numbered Memo 2022-12.<sup>12</sup>

*b. The prohibition on the use of sound amplification devices by people outside of the voting place at a voting site is overbroad.*

Like the prohibition on making noise outside of a voting place that is audible within a voting enclosure, the blanket prohibition on any sound amplification device outside of a voting place is overbroad. To the extent that the rule would outlaw the use of amplified sound that is not even audible within the voting enclosure, let alone disruptive to the voting process, it oversteps those restrictions in North Carolina state law and may interfere with expressive activities protected by the First Amendment.

It is not clear when a person is or is not “outside of the voting place at a voting site.” Proposed Rule 08 NCAC 10C .0101 defines “voting site” as “the property on which the voting place is located,” and “voting place” as “the building, or part therefore, used for voting[.]” Under this definition, a polling site could potentially be very large and a person may not know how far from a voting place they must be to be considered “outside of the voting place.” For example, if a voting place is a building on a college campus, is someone prohibited from using a sound amplification device anywhere on the campus because it is still on the voting site outside of the voting place? Moreover, a voting site or polling place itself may also be so large that amplified noise is not audible within the voting enclosure at all, in which case it would not be disruptive to the voting process.

---

<sup>9</sup> *Id.* at 15. The Supreme Court later highlighted examples of statutes that clearly defined what speech was disallowed, such as a prohibition on the “display of a candidate’s name, likeness, or logo.” *Id.* at 22.

<sup>10</sup> *Id.* at 21–22.

<sup>11</sup> *Id.*

<sup>12</sup> Numbered Memo 2022-12 at 5–6, available at <https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2022/Numbered%20Memo%202022-12%20Maintaining%20Order%20at%20the%20Polls.pdf> (“The chief judge must use their sound discretion to attempt to de-escalate any potential disturbance and to issue warnings about behaviors that could lead to a person’s ejection or arrest, if possible. . . . [C]ounty boards should avoid having law enforcement officers stationed at a voting place while voting is occurring, and should avoid situations where law enforcement could be perceived as monitoring voters.”).

We therefore recommend that the State Board continue to adhere to the statutory framework for maintaining order at polling locations, as explained in Numbered Memo 2022-12. If the Board decides to adopt the Proposed Rules, it must at least provide clear guidance on noise limits for sound amplification, such as a decibel limit like those included in many local ordinances. We also recommend that the State Board require county boards to define an area within which noise amplification devices are not permitted, such as the buffer zone. Without such guidance, application of this rule as written is likely to infringe upon protected First Amendment activity taking place in traditional public fora.

\* \* \*

Thank you for the opportunity to comment on the Proposed Rules. We hope these comments help the State Board in its efforts to administer safe elections free from intimidation and disruption while preserving the core constitutional rights of North Carolinians. Should you have any questions, we would be happy to provide any additional information that may be helpful in your consideration of this issue.

Respectfully submitted,

Jeffrey Loperfido  
Chief Counsel for Voting Rights

Kristi L. Graunke  
Legal Director

Hilary Harris Klein  
Senior Counsel for Voting Rights

Jaelyn A. Maffetore  
Senior Staff Attorney

Lily Talerman  
Counsel for Voting Rights

ACLU OF NORTH CAROLINA  
LEGAL FOUNDATION

SOUTHERN COALITION FOR  
SOCIAL JUSTICE