



Retention of Election Records Policy	City Clerk – Election Office
	Policy No.: EO-27-23

1. Purpose

1.1. This document establishes the City Clerk’s policy respecting the retention of ballots, documents and materials related to a City of Hamilton election/by-election.

2. Application

2.1. This policy applies to election documents and materials, including ballots, identification documents, memory media, results tapes, and other materials that were produced during pre-election and post-election tests.

3. Legislative Authority

3.1. Section 88 of the *Municipal Elections Act, 1996* (“MEA”) sets out the requirements respecting retention of election records.

4. Policy

Retention of Ballots and Other Related Materials

4.1. The City Clerk will retain copies of ballots and all other documents and materials related to an election in a secure manner that prevents unauthorized access for 120 days after declaring the results of the election.

Reference MEA s.88(1)

4.2. The City Clerk will destroy ballots in the presence of two witnesses, and, subject to section 4.3 herein and except as provided for in section 4.4 herein, will destroy all other documents and materials related to the election, upon expiry of the 120-day period after declaring the results of the election unless:

- a. a court orders that they be retained; *Reference: MEA s.88(3)(a)*
- b. a recount has been commenced and not finally disposed of.

Reference: MEA 88(3)(b)

Retention of Election Campaign Finance Documents

- 4.3. Notwithstanding section 4.2 herein, the City Clerk will retain documents filed under sections 88.25, 88.29 and 88.32 of the MEA until the members of the council or local board elected at the next regular election have taken office. *Reference MEA s.88(4).*

Retention of all other Election-related Materials

- 4.4. Notwithstanding section 4.3 herein, documents and materials related to an election including campaign finance, election results and election personnel for example will be retained in accordance with City of Hamilton Records Retention By-Law No.11-040.

Record of Destruction

- 4.5. Upon the destruction of ballots and other election related documents and records, a Record of Destruction will be signed by the City Clerk and both witnesses and maintained.

Election Documents are Public Records

- 4.6. Despite anything in the *Municipal Freedom of Information and Protection of Privacy Act*, all documents and materials filed with or prepared by the City Clerk or any other election official under the MEA are public records and, until their destruction, may be inspected at the City Clerk's Office at a time when the office is open. *Reference MEA s.88(5).*
- a) Section 4.6 of this policy does not:
 - i. apply to documents and materials filed with or prepared by the clerk or any other election official under this Act once the 120-day period has elapsed. *Reference MEA s.88(6).*
 - ii. entitle a person to inspect the contents of a ballot box or any applications made under section 24 or 25 unless authorized to do so by a court order. *Reference: MEA s.88(6.1)*

- iii. apply to information about a person that has been redacted under section 4.7 of the *Election Act*. Reference *MEA s.88(6.2)*.

4.7 See also EO-04-22: Procedure for the Viewing of Election Documents.

5. Legislation

Municipal Elections Act, 1996, S.O. 1996, CHAPTER 32

6. Revision History

Policy Approved	October 2023
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