ORDINANCE NO. 13-28

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 34 ENTITLED "ELECTIONS" OF THE CODE OF ORDINANCES, AND IN PARTICULAR, REVISING HIALEAH CODE § 34-2 ENTITLED "QUALIFYING PERIOD FOR MAYOR AND COUNCILMEMBERS" TO CHANGE THE FIRST DAY OF QUALIFYING FOR THE OFFICE OF MAYOR AND THE OFFICE OF COUNCILMEMBER FROM THE 74TH DAY TO THE 120th DAY PRIOR TO THE PRIMARY ELECTION AND CHANGE THE LAST DAY OF QUALIFYING FROM THE 53RD DAY TO THE 99TH DAY PRIOR TO THE PRIMARY ELECTION; AND TO REVISE PROVISIONS TO REQUIRE PAYMENT OF ASSESSMENT ACCORDING TO STATE LAW UNLESS SO EXEMPTED; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the purpose and intent of this ordinance is to amend the provisions of the Election Code to include the payment of an assessment required by candidates for public office under state law, to wit: 1 percent of the annual salary of the office sought pursuant to section 99.031(1), Florida Statutes, unless exempted if unable to pay pursuant to section 99.093(2), Florida Statutes; and

WHEREAS, the purpose and intent of this ordinance is to revise the qualifying dates for candidates for the office of mayor and the office of councilmember, while still retaining the 21-day period of qualifying; and

WHEREAS, the City of Hialeah finds that it is in the best interest of the health, safety, welfare of the community and proper administration of government to allow for earlier qualifying dates for elective office so that the voters can have more than 3 months to make informed decisions with the certainty and knowledge of which candidates are running for each office, rather than the existing time that is less than 2 months; and

WHEREAS, the City of Hialeah considered the County regulations that qualify candidates during May and June for County Mayor and County Commissioners for a primary in August and an election in November and state law that provides for the first day of qualifying for elective federal offices and other statewide offices as the 120th day prior to the primary in August

in some circumstances or 71st day prior to a primary in August (12 weeks prior to general election) for a general election in November; and

WHEREAS, since the primary and election for municipal office in Hialeah are held two weeks apart in November, the traditional timeframe for qualifying, which ends in the middle of September, leaves little time for a campaign with known candidates for the public to evaluate and assess candidates running for office; and

WHEREAS, the City and its elected officials support this election reform to extend the time period for the election campaign, without diminishing the time period of 21 days to qualify for elective office; and

WHEREAS, the qualifying period is projected to be in this election cycle from July 8th through July 29th for a primary to be held on November 5th, which are dates later than Miami-Dade County qualifying periods, which would occur in May and June during a state and county election year; which are dates later than federal office qualifying periods that occur in April and which are dates later than state, district offices and some county offices, that occur in the first week of June.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 34 entitled "Elections" of the Code of Ordinances of the City of Hialeah, Florida, by revising Hialeah Code § 34-2 entitled "Qualifying period for mayor and councilmembers", is hereby amended to read as follows:

Chapter 34

ELECTIONS

* * *

Sec. 34-2. Qualifying period for mayor and councilmembers.

Any person who seeks the office of mayor or councilmember in the city shall file such person's qualification papers and pay the qualifying fee of $100.00 required pursuant to section 5.05 of the Charter and pay the assessment according to state law unless exempted from payment to the city clerk at any time during business hours after 12:00 noon on the first day of qualifying, the date of which shall be the ~~74th~~ 120th day prior to the primary

election, but not later than on the ~~53rd~~ 99th day prior to the primary election.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered, as appropriate, to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: **Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 23 day of April, 2013.

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 29 day of April, 2013.

Marbelys Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".