ORDINANCE NO. 2013-31

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA PROVIDING FOR A PRIMARY ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013 AND A GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 19, 2013; PROVIDING FOR THE MIAMI-DADE COUNTY ELECTIONS DEPARTMENT TO CONDUCT THESE ELECTIONS AND OTHER MATTERS RELATING THERETO; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1: **Purpose.**

In order to comply with the election laws to elect the Mayor, where the term has expired, to elect three Councilmembers, Group Seats numbered V, VI and VII, whose terms have expired; a primary election is hereby called for the City of Hialeah, Florida to be held on Tuesday, November 5, 2013, if two or more candidates qualify for any particular Councilmember Group Seat or if two or more candidates qualify for the Office of the Mayor. A general election is hereby called for the City of Hialeah, Florida on Tuesday, November 19, 2013, if necessary.

Section 2: **Conduct of Election.**

The Miami-Dade County Supervisor of Elections is requested and authorized to conduct these elections in accordance with the general election laws of the State of Florida and the Charter and Code of the City of Hialeah, Florida. The City will pay all expenses associated with these elections unless some of the expenses are shared with other governmental entities. The

Miami-Dade County Supervisor of Elections shall appoint an Election Board to assist the Elections Department in conducting the elections. The City of Hialeah will make the final tabulation and certification of results.

Section 3. **Form of Ballot.**

The ballot form to be used shall be as provided by the Miami-Dade County Supervisor of Elections.

Section 4. **Opening and Validating Absentee Ballots.**

The criteria and requirements for the opening and validating of absentee ballots and canvassing of ballots shall be same as followed by the Miami-Dade County Supervisor of Elections. All absentee ballots shall comply with the minimum requirements of state law.

Section 5. **Canvassing Board.**

The City Councilmembers, whose terms expire in November 2015, shall serve as the Canvassing Board for this election. The members in attendance will be the canvassing board for the Logic and Accuracy Test and the canvass of ballots on Election Day. If no member of the canvassing board attends the Logic and Accuracy tests and/or the canvassing of ballots on Election Day, the Acting City Clerk shall serve as the Canvassing Board designee for the City Council. The City of Hialeah hereby designates the Miami-Dade County Supervisor of Elections to conduct the Pre-count Logic & Accuracy Test of the Optical Scan System used for paper ballots; begin the processing and opening of absentee ballots and duplicate ballots as needed, for both the primary and general elections.

Section 6. **Certification of Results.**

The Canvassing Board will make the official certification of the primary results on or about 12:00 noon on Wednesday, November 6, 2013, at a special meeting the day following the

primary for all ballots cast in the election, except for provisional ballots, if any, which will be certified on or about 12:00 noon on Monday, November 11, 2013. The Canvassing Board will make the official certification of the general election results on or about 12:00 noon on Wednesday, November 20, 2013, at a special meeting the day following the general election, if conducted, for all ballots cast in the election, except for provisional ballots, if any, which will be certified on or about 12:00 noon on Monday, November 25, 2013.

Section 7: Registration of Voters.

The Miami-Dade County Supervisor of Elections will register voters for the primary election until 5:00 p.m., on Monday, October 7, 2013; and for the general election until 5:00 p.m. on Monday, October 21, 2013. All persons eligible to vote at these elections must be registered before the times stipulated above or have registered previously, as provided by law.

Section 8: Polling Places, Hours of Voting.

Polling places for these elections will be as designated by the Miami-Dade County Supervisor of Elections and will be open from 7:00 a.m. to 7:00 p.m. on each election day.

Section 9: Qualification of Candidates.

No person shall be eligible to be a candidate for office who has not been properly qualified as a legal voter in the City of Hialeah, Florida for one year prior to the primary or election to which the candidate intends to seek election. No person who is a candidate for office shall be permitted to serve on the Election Board for these elections either as inspector or clerk. Each person, before being eligible to have his/her name placed on the ballot, must qualify in person at the office of the City Clerk no earlier than 12:00 noon on Monday, July 8, 2013, and no later than 5:00 p.m. on Monday, July 29, 2013, by submitting all required qualification papers

with a filing fee of $100.00 plus an election assessment pursuant to section 99.093(1), Florida Statutes.

Section 10: Method of Election and Terms of Office.

If two or more candidates qualify for the Office of Councilmember for any of the Group Seats numbered V, VI and VII, then a primary election shall be conducted for that particular group seat. The two candidates for nomination to the Office of Councilmember in any particular group seat who receive the greatest vote in the primary election shall be placed on the ballot at the general election for that group seat, except as provided herein. The candidate for the Office of Councilmember who receives the greatest number of votes cast in that particular group seat in the general election shall be deemed elected. If a primary election is conducted for any particular Councilmember Group Seat, and any candidate receives a majority (50% plus one vote) of all the votes canvassed and certified for the office sought, then the candidate receiving such majority vote shall be deemed elected for that Group Seat. No election for any particular Councilmember Group Seat shall be required in which there is only one duly qualified candidate for that Group Seat.

If two or more candidates qualify for the Office of Mayor, then a primary election shall be conducted for Mayor. The two candidates for nomination to the Office of Mayor who receive the greatest vote in the primary election shall be placed on the ballot at the general election for Mayor, except as provided herein. The candidate for the Office of Mayor who receives the greatest number of votes cast for mayor in the general election shall be deemed elected. If a primary election is conducted for Mayor, and any candidate receives a majority (50% plus one vote) of all the votes canvassed and certified for the office sought, then the candidate receiving

such majority vote shall be deemed elected for mayor. No election for Mayor shall be required in which there is only one duly qualified candidate for Mayor.

The term of Office for Councilmembers elected from Group Seats numbered V, VI and VII are four years or until a successor shall be duly qualified and take office. The term of Office for the Mayor is four years or until a successor shall be duly qualified and take office. The terms of the Mayor and the three Councilmembers shall begin on 12:00 noon on Friday, November 22, 2013, if there is a general election for the Mayor or any of the five Councilmembers. If there is no general election, the terms of the Mayor and the Councilmembers for Group Seats V, VI and VII shall begin on 12:00 noon on Friday, November 8, 2013.

Section 11: **Notice.**

Notice of these elections shall be according to state law.

Section 12: **Early Voting.**

The City shall comply with the times and locations of early voting as established by the Miami-Dade County Supervisor of Elections pursuant to state law.

Section 13: **Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 14: **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 15: **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 16: **Effective Date.**

This Ordinance shall become effective when passed by the City Council and when 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 28 day of May, 2013.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 31 day of May, 2013.

Marbelys Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

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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".

Fatjo, Marbelys

From: Fatjo, Marbelys
Sent: Thursday, May 02, 2013 3:14 PM
To: 'zeidar@miamidade.gov'; 'RIVEROM@miamidade.gov'
Subject: Proposed Ordinances
Attachments: electionordinance2013.docx; extensiongeneralelectiondate2013.docx

Good afternoon. Attached please find two proposed ordinances which will be heard by the City Council, thereby setting the date for the Primary Election and the General Election. Please provide me with any comments or concerns you may have.

Respectfully,

Marbelys L. Rubio-Fatjo, Esq.
Acting City Clerk
City of Hialeah
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