ORDINANCE NO. 09-48

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA OPTING OUT OF THE EARLY VOTING TIME AND LOCATION PROVISIONS PROVIDED BY STATE LAW, SPECIFICALLY, SECTIONS 101.657(1)(a)-(1)(d), FLORIDA STATUTES AND IN LIEU THEREOF, PROVIDING EARLY VOTING AT JFK LIBRARY FOR THE PRIMARY ELECTION, AND IN PARTICULAR, ON MONDAY, OCTOBER 26, 2009, FROM 11:00 A.M. TO 7:00 P.M., ON TUESDAY, OCTOBER 27, 2009, FROM 11:00 A.M. TO 7:00 P.M, ON WEDNESDAY, OCTOBER 28, 2009, FROM 11:00 A.M. TO 7:00 P.M.; ON THURSDAY, OCTOBER 29, 2009, FROM 8:00 A.M. TO 4:00 P.M.; FRIDAY, OCTOBER 30, 2009, FROM 8:00 A.M. TO 4:00 P.M., ON SATURDAY, OCTOBER 31, 2009, FROM 11:00 A.M. TO 3:00 P.M., AND ON SUNDAY, NOVEMBER 1, 2009, FROM 11:00 A.M. TO 3:00 P.M.; AND PROVIDING EARLY VOTING AT JFK LIBRARY FOR THE GENERAL ELECTION, IF A GENERAL ELECTION IS HELD, AND IN PARTICULAR, ON FRIDAY, NOVEMBER 13, 2009, FROM 8:00 A.M. TO 4:00 P.M., ON SATURDAY, NOVEMBER 14, 2009, FROM 11:00 A.M. TO 3:00 P.M. AND ON SUNDAY, NOVEMBER 15, 2009, FROM 11:00 A.M. TO 3:00 P.M.; 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.

WHEREAS, the Florida Legislature provides for early voting procedures pursuant to section 101.657, Florida Statutes; and

WHEREAS, the Florida Election Code allows for municipalities to adopt by ordinance, special act or charter, changes to the dates for the election of municipal officers pursuant to section 100.3605(2), Florida Statutes; and

WHEREAS, the Florida Election Code pursuant to section 100.3605(1), Florida Statutes, further permits a municipality to exempt itself from any provision of the Florida Election Code if such provision does not expressly apply to municipalities; and

WHEREAS, Florida law does not expressly require early voting for municipal elections; and

WHEREAS, pursuant to sections 101.657(1)(a) and (e), Florida Statutes, the City finds that it is in the best interest of the community and its residents to provide early voting at the centrally-located and accessible main public library for the convenience of the voters; and

WHEREAS, the Supervisor of Elections for Miami-Dade County shall conduct the elections for the City of Hialeah.

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

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The City of Hialeah, Florida hereby opts out of the early voting time and location provisions provided by state law, sections 101.657(1)(a)-(1)(d), Florida Statutes and in lieu thereof, provides for early voting at JFK Library for the primary election on Monday, October 26, 2009, from 11:00 a.m. to 7:00 p.m., on Tuesday, October 27, 2009, from 11:00 a.m. to 7:00 p.m., on Wednesday, October 28, 2009, from 11:00 a.m. to 7:00 p.m., on Thursday, October 29, 2009, from 8:00 a.m. to 4:00 p.m., on Friday, October 30, 2009, from 8:00 a.m. to 4:00 p.m., on Saturday, October 31, 2009, from 11:00 a.m. to 3:00 p.m., and on Sunday, November 1, 2009, from 11:00 a.m.

through 3:00 p.m.; and provides early voting at JFK Library for the general election, if a general election is held, on Friday, November 13, 2009, from 8:00 a.m. to 4:00 p.m., on Saturday, November 14, 2009, from 11:00 a.m. to 3:00 p.m. and on Sunday, November 15, 2009, from 11:00 a.m. to 3:00 p.m.

Section 3: **Repeal of Ordinances in Conflict.**

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

Section 4: **Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by 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 described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

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 23rd day of June, 2009.

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

Carlos Hernandez
Council President

Attest:

Approved on this 29 day of June, 2009.

Rafael E. Granado, City Clerk

Mayor Julio Robaina

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

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Ordinance was adopted by a 5-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Hernandez, Yedra voting "Yes" and Councilmembers Garcia-Martinez and Gonzalez absent.