ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING SECTIONS 10, 36, 40 AND 58 OF THE CITY OF NORTH MIAMI CHARTER, AND AMENDING CHAPTER 6 OF THE CITY CODE OF ORDINANCES ENTITLED "ELECTIONS", SPECIFICALLY AT SECTIONS 6-21, 6-76 AND 6-78, ENTITLED "QUALIFICATION OF CANDIDATES", "DATES OF ELECTIONS" AND "ELECTION OF CITY COUNCIL MEMBERS", RESPECTIVELY, TO CHANGE THE DATE OF THE GENERAL ELECTION FROM MAY 2015 TO NOVEMBER 2016, AND TO CHANGE THE DATE OF ALL SUBSEQUENT ELECTIONS; CHANGING THE DATE OF THE RUNOFF ELECTION; ADJUSTING THE DATE FOR QUALIFICATION OF CANDIDATES; PROVIDING FOR THE EXTENSION OF EXISTING TERMS OF OFFICE; ADOPTING SUCH CHARTER AND CODE AMENDMENTS PURSUANT TO SECTIONS 100.3605(2), 101.75(3), AND 166.021(4), FLORIDA STATUTES (2014); PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, in accordance with Section 36 of the City of North Miami ("City") Charter ("Charter"), regular elections for Councilmembers, Mayor and City Clerk shall be held on the second Tuesday in May in odd-numbered years; and

WHEREAS, Sections 6-76 and 6-78 of the City Code of Ordinances ("Code"), mirror the City Charter in that they provide for the timing of regular elections to fill the office of Councilmembers, Mayor and City Clerk, to be held in odd-numbered years on the second Tuesday in May; and

WHEREAS, Section 6-76 of the Code, further provides for runoff elections to be held on the first Tuesday in June, in the event no candidate receives a majority of the votes cast in the regular election; and

WHEREAS, Section 100.3605(2), Florida Statutes (2014), authorizes the City to change by ordinance, the dates for qualifying and for the election of members of the governing body of the City and to provide for the orderly transition of office resulting from such date changes; and

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WHEREAS, Section 101.75(3), Florida Statutes (2014), further provides that, notwithstanding any provision of local law or municipal charter, the City Council may, by ordinance, move the date of any municipal election to a date concurrent with any statewide or county wide election, and the dates for qualifying for the election moved by the passage such ordinance shall be specifically provided for in the ordinance; and

WHEREAS, Section 166.021(4), Florida Statutes (2014), secures the City's broad exercise of home rule powers granted by the Florida Constitution, and thereby extends to the City the exercise of powers for municipal governmental, corporate, or proprietary purposes not expressly prohibited by the constitution, general or special law, or county charter; and

WHEREAS, the Florida Attorney General has routinely opined that a city may amend its charter by ordinance for the purpose of changing election dates to coincide with federal, state and county elections and to extend the terms of sitting Councilmembers to November (AGO 2013-05; AGO 2007-40; AGO 2007-34; AGO 2001-81; AGO 2000-61); and

WHEREAS, the City Council finds that the City's current general election held in May is funded entirely by the residents of the City and it would be in the public's best interest to reduce taxpayer costs and streamline the election process by moving the City's General Election from May in odd-numbered years to the first Tuesday in November following the first Monday in November in each even-numbered year so that the City General Election would coincide with the national, gubernatorial and county elections; and

WHEREAS, the City Council further finds that when City elections are held in conjunction with national, gubernatorial and county elections, there is generally a greater number of registered voter participation resulting from the combination of such elections; and

WHEREAS, starting with the 2015 City General Election currently scheduled for May 12, 2015, the City Council desires to change the date of the City's General Election from May 12, 2015 to November 8, 2016, which will extend the corresponding terms of office of sitting Councilmembers, including the Mayor, to coincide with the Miami-Dade County election date(s); and

WHEREAS, on November 8, 2016, the City's General Election will only be held for the Office of the Mayor and the Offices of the Councilmembers for Districts 1 and 4; and

WHEREAS, all subsequent elections will now occur on the first Tuesday following the first Monday in November in each even-numbered year and the date of runoff elections shall occur not more than three (3) weeks after the City General Election; and

WHEREAS, notwithstanding the extension of terms of office of sitting members of City Council by virtue of moving the dates of elections, no Councilmember including the Mayor, shall serve more than two (2) consecutive terms beginning with the election in 2013, in accordance with Section 101.75(3), Florida Statute (2014) and Section 10(3), City Charter; and

WHEREAS, the City Council finds that moving the dates of City elections to a date concurrent with any statewide or countywide elections in the manner provided herein, is in the best interest of the City.

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

Section 1. Recitals. The above recitals are true and correct and incorporated herein by this reference.

Section 2. Charter and Code Amendments. Pursuant to Sections 100.3605(2), 101.75(3), and 166.021(4), Florida Statutes (2014), Sections 10, 36, 38, 40 and 58 of the City of North Miami Charter, and Chapter 6 of the City Code of Ordinances entitled "Elections", specifically at Sections 6-21, 6-76 and 6-78, entitled "Dates of Elections" and "Election of City Council Members", respectively, are amended to read as follows:

PART I. CHARTER OF THE CITY OF NORTH MIAMI

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ARTICLE III. THE COUNCIL

* * * * *

Sec. 10. Number; selection; term.

(1) The city shall be governed by a mayor and city council. The council shall consist of four (4) councilmembers and a mayor. Four (4) single member districts shall be created for the election of four (4) councilmembers, with such districts to be determined by city ordinance.

(2) Each candidate for council shall run in one (1) of four (4) districts designated as Districts 1, 2, 3, and 4. The mayor shall be elected at large. The terms of the councilmembers shall end on the fourth Tuesday of ~~May~~ November of the fourth year of their term or when their successors in office are elected and sworn into office beginning with the election in ~~2013~~ 2016.

(3) On the ~~second~~ first Tuesday after the first Monday in ~~May~~ November of each ~~odd~~even-numbered year, two (2) councilmembers shall be elected for a four-year term. No councilmember including the mayor shall serve more than two (2) consecutive terms beginning with the election in 2013. Any councilmember, including the mayor, elected in 2013 or 2014, and re-elected in 2016 or immediately thereafter, will be serving his or her second term. The mayor shall be elected for a two year term. Service will be deemed consecutive unless there is a two-year period during which the individual does not serve as councilmember or mayor ("Break in Service"). Any person serving the maximum amount of years as mayor must have a two-year Break in Service before serving as councilmember. Any person serving the maximum amount of years as councilmember is not mandated to have a two-year Break in Service before serving as mayor. A councilmember candidate must continuously reside and submit a Florida government issued identification (ID) plus one type of residency showing that the candidate has continuously resided in the district for which the candidate is seeking election, for a period of one (1) year prior to the time of qualification and thereafter. A councilmember who changes residence to a location outside of the district shall immediately vacate such office, and such vacancy shall be filled pursuant to this charter. The mayor shall not serve as mayor for more than two (2) consecutive terms and must be a continuous resident of the city for one year prior to the time of qualification and thereafter. Councilmembers serving an unexpired term who desire to run for the office of mayor or in another district shall resign as required by state law. Whenever the term council or councilmembers is used in this charter, it shall be deemed to mean and include the mayor unless otherwise specifically provided.

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ARTICLE VII. ELECTIONS

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Sec. 36. Municipal elections.

The regular election for councilmembers, mayor and city clerk when applicable shall be held on the ~~second~~ first Tuesday after the first Monday in ~~May~~ November in ~~odd~~even-numbered years.

Should the council determine that by reason of the happening of a disaster or of an impending disaster, such election should not be held, it may by resolution authorize the mayor by proclamation to postpone the holding of the election for a period not to exceed fourteen (14) days. Such proclamation shall be posted in the city hall not less than ten (10) hours prior to the opening of the polling place or places for such elections and shall specify the time to which the election is to be postponed. The term "qualified elector" as used in this charter shall mean a citizen having the qualifications required by law to vote in the city who is at the time registered to vote, or, if no later complete registration is in effect at the time, was registered to vote in the

city at the last preceding general election. Any special election of the council shall be held as nearly as practicable according to provisions for a regular election.

Sec. 40. Qualification of candidates.

(a) Any qualified elector, as described in Article III, Section 10 above, of the city may qualify and run for a single council district seat, for mayor, or for city clerk by filing such intention in writing with the city election authorities not earlier than ~~forty-three (43)~~ seventy seven (77) days nor later than ~~thirty-five (35)~~ sixty nine (69) days before the election, such intention to be in substantially the following form:

~~(b)~~ I, the undersigned, an elector of the City of North Miami, whose residence is _____ hereby announce my candidacy for the office of (councilmember, District No. _____ (for mayor), (for city clerk) to be voted for at the election to be held on the day of _____ 20__, and I hereby agree to serve if elected.

Signature of candidate _____

Date and hour filing _____

Received by _____
(signature of election official)

(b) The city council may by resolution adjust the date of the commencement and termination of the qualifying period for a specific election in order to comply with a request of the Miami-Dade County Supervisor of Elections.

(c) No intention or announcement of candidacy shall be accepted by the election authorities unless accompanied by a qualifying fee to be paid by the candidate in the sum of five (5) percent of the yearly salary which a councilmember is then entitled to receive. The officer who receives the qualifying fee shall issue a receipt. Such qualifying fee shall be returned to the candidate if the candidate becomes ineligible or withdraws such candidacy not later than the close of qualifying. Any candidate may withdraw such candidacy not later than the last day for filing same by filing a notice of withdrawal with the city clerk.

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ARTICLE VIII. CITY CLERK

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Sec. 58. City clerk; election.

(a) On the ~~second~~ first Tuesday after the first Monday in ~~May~~ November of an ~~odd~~even-numbered year, the city clerk shall be elected to hold office for a term of four (4) years and until

his or her successor is elected and qualified but beginning in 2013 shall be limited to serving no more than two consecutive terms. In the event that no candidate receives a majority of the votes cast, then a runoff election shall be held between the two (2) candidates receiving the highest number of votes at the time and in the manner set forth in ~~[section] 61~~ section 38. In the event a vacancy occurs in the office of city clerk, the deputy city clerk shall assume the duties of the city clerk. Such vacancy shall be filled for a full four-year term in the next regular election being held for the City of North Miami.

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PART II. CODE OF ORDINANCES

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CHAPTER 6. ELECTIONS

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ARTICLE IV. ELECTION ADMINISTRATION

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Sec. 6-21. Method of qualifying.

(a) Any qualified elector, as described in article II, section 5 above, of the city may qualify and run for a single council district seat, for mayor, or for city clerk by filing such intention in writing with the city election authorities not earlier than ~~forty-three (43)~~ seventy seven (77) days nor later than ~~thirty-five (35)~~ sixty nine (69) days before the election, such intention to be in substantially the following form:

~~(b)~~ I, the undersigned, an elector of the City of North Miami, whose residence is _____ hereby announce my candidacy for the office of (Councilperson, District No. _____ (for Mayor), (for City Clerk) to be voted for at the election to be held on the day of _____ 20, _____ and I hereby agree to serve if elected.

Signature of candidate _____

Date and hour filing _____

Received by _____
(signature of election official)

(b) The city council may by resolution adjust the date of the commencement and termination of the qualifying period for a specific election in order to comply with a request of the Miami-Dade County Supervisor of Elections.

(c) No intention or announcement of candidacy shall be accepted by the election authorities unless accompanied by a qualifying fee to be paid by the candidate in the sum of five (5) percent of the yearly salary which a councilperson is then entitled to receive. The officer who receives the qualifying fee shall issue a receipt. Such qualifying fee shall be returned to the candidate if the candidate becomes ineligible or withdraws such candidacy not later than the close of qualifying. Any candidate may withdraw such candidacy not later than the last day for filing same by filing a notice of withdrawal with the city clerk.

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Sec. 6-76. Dates of elections.

(a) Regular elections to fill the office of mayor, city councilmember or city clerk shall be held in ~~odd~~even-numbered years, on the ~~second~~ first Tuesday after the first Monday in ~~May~~ November.

(b) In the event no candidate receives a majority of the votes cast in the regular election, a runoff election between the two (2) candidates receiving the largest number of votes for a seat shall be held ~~in odd-numbered years, on the first Tuesday in June~~ not more than three (3) weeks after the election. Any subsequent runoff election shall be held in ~~exactly~~ no more than three (3) weeks thereafter.

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Sec. 6-78. Election of city council members.

(a) Pursuant to Section 5 of the Charter of the City of North Miami, four (4) single-member districts are hereby created for the election of four (4) city council members, one (1) member from each district, with each district to be designated as District 1, District 2, District 3, and District 4.

The specific descriptions of each of the single member districts are as set forth in the Single Member District Map and accompanying ~~1990~~ U.S. Census Block descriptions ~~attached hereto as Exhibit "A" and~~ are incorporated herein.

* * *

(c) On the ~~second~~ first Tuesday after the first Monday in ~~May 1993~~ November 2018 and on the ~~second~~ first Tuesday after the first Monday in ~~May~~ November every four (4) years thereafter, the city council members for District 2 and District 3 shall be elected, in accordance with Miami-Dade County elections. On the ~~second~~ first Tuesday after the first Monday in ~~May 1995~~ November 2020 and on the ~~second~~ first Tuesday after the first Monday in ~~May~~ November every four (4) years thereafter, the city council members for District 1 and District 4 shall be elected, in accordance with Miami-Dade County elections. The terms for the council members elected shall end on the fourth Tuesday of ~~May~~ November of the fourth year of their term or when their successors in office are elected and sworn into office.

(d) ~~As provided herein, the four (4) single-member district mechanism of election shall be first implemented at the election to be held on the second Tuesday of May 1993. Those two (2)~~

~~council members elected under the at-large system prior to November 3, 1992 and holding office beyond the date of such May 1993 election process period shall continue to serve as at-large council members until the May 1995 election process period, at which time their successors shall be elected under the single-member district system to be implemented pursuant to this section, thereby completing the transition from an at-large system to the single-member district system. It is the intention of this section to provide for a smooth transition from the at-large system to the single-member district system, as specifically required by City Charter Section 5.~~ Any councilmember, including the mayor, elected in 2013 or 2014, and re-elected in 2016 or immediately thereafter, will be serving his or her second term under section 10 of the Charter.

(e) A council member candidate must reside in the district for which he or she is seeking to be elected under the single-member district system, at the time of qualification and thereafter. A council member who changes residence to a location outside of his or her single-member district shall immediately vacate such office, and such vacancy shall be filled pursuant to ~~Section 171~~ section 15 of the City Charter.

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Section 3. Extension of Existing Terms of Office. Notwithstanding the provisions of Section 10(2) of the City Charter for the 2015 General Election, the term of the office for any Councilmember whose term would ordinarily expire in May of 2015, shall be extended up to the date that the newly elected or re-elected Councilmember, would take office pursuant to Section 37 of the City Charter.

Section 4. Date of 2016 Election for Office of the Mayor and Councilmembers. On November 8, 2016, the City's General Election will be held for the Office of the Mayor and the Offices of Councilmembers for Districts 1 and 4.

Section 5. Inclusion and Codification of the Charter and Code/Conformity of Amendments. Following adoption of the Charter and Code amendments, the City Clerk shall have the Charter and Code amendments incorporated into the City Charter and City Code of Ordinances and shall file the revised Charter with the Department of State. The City Clerk is authorized to revise the Charter to the extent necessary to ensure that the adopted Charter amendments conform to one another.

Section 6. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it

being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 7. **Repeal of Conflicting Provisions.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 8. **Effective Date.** This Ordinance shall become effective upon adoption on second reading.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, this _____ day of January, 2015.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, this _____ day of February, 2015.

_____
DR. SMITH JOSEPH
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: COUNCILPERSON PHILIPPE BIEN-AIME

Moved by: _____

Seconded by: _____

Vote:

Mayor Smith Joseph, DO	_____ (Yes)	_____ (No)
Vice Mayor Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Philippe Bien-Aime	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

Additions shown by <u>underlining.</u> Deletions shown by ~~overstriking~~.