



ORDENANZA

PROCESO DE TRÁMITE DE INICIATIVAS Y
PROPOSICIONES

Versión: 1

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ORDINANCE No. 002 OF 2018 (April 30)

"BY MEANS OF WHICH THE ORDINANCE 002 OF 2017 (PEACE DEPARTMENTAL COUNCIL) IS MODIFIED AND OTHER REGULATIONS ARE DICTATED.

THE ASSEMBLY OF THE DEPARTMENT ARCHIPELAGO OF SAN ANDRES, OLD PROVIDENCE, AND KETHLEENA, in use of its legal faculties, especially those conferred by the Articles 2, 93, and 300 of the Political Constitution; ILO Convention 169; Law 21 of 1991; Article 12 of Law 434 of 1998; Decree 885 of 2017, Articles 60, 72, and 74 of Decree 1222 of 1986, Ordinances 005 of 2009 and 010 of 2016, and other concordant regulations

ORDERS

ARTICLE 1. Be the title of the Ordinance 002 of 2017 modified and shall state: "By means of which The Peace, Reconciliation, Human Rights, and Ethnic Rights Departmental Council is created on the Archipelago of San Andres, Old Providence, and Kethleena, and other regulations are dictated".

ARTICLE 2. Be the Article 1 of Ordinance 002 of 2017 modified and shall state:

ARTICLE 1. CREATION AND NATURE. Be The Peace, Reconciliation, Human Rights, and Ethnic Rights Departmental Council created in the Archipelago of San Andres, Old Providence, and Kethleena".

ARTICLE 3. Be the Paragraph of Article 1 of Ordinance 002 of 2017 modified and let it be added a new Paragraph to that Ordinance, which shall state:

PARAGRAPH 1. The Peace Departmental Council will serve as an advisory and consultive body of the local or territorial Government; it will have a vast participation of the islander civil society and the Community of the Ethnic Raizal People. Its mission will be to specially tend towards the achievement and maintenance of peace and tranquility; generate a culture of reconciliation, tolerance, pacific coexistence and no stigmatization in all the Ethnic Territory and facilitate the harmonious collaboration of all entities and bodies of the Archipelago, granting priority to alternate negotiations policies of internal armed conflict (if there is any in the Department) or its corollary effects or related actions, in order to reach responsible social relations that ensure integral and prevailing peace, under an affirmative action scope or schema and real leverage of the Ethnic Raizal Territory rights, especially during what pertains to the period of time of the Post Conflict in all the country.

PARAGRAPH 2. GUIDING PRINCIPLES. The Departmental Council will be oriented by the following principles:

a) Integrity. To obtain and keep true peace, the sole elimination of war is not enough. It is simultaneously required a group of integral measures of a social-economic, cultural and political type that efficiently battle the causes of violence.

- b) Solidarity. Peace is not only a product of the understanding and comprehension of human kind, but also the result of their solidarity and reciprocity.
- c) Responsibility. As the achievement of peace is a purpose of the State, which is presided by the President of the Republic, it will be them who will respond for the results; within the terms of Law, will equally respond the Commissions and Committees created here, the Governor in the Departmental and the Mayors in the Municipal.
- d) Participation. Reaching and keeping peace requires the democratic participation of the citizens, the solidary commitment of society and the concertation of policies and strategies for its achievement; taking into account the political pluralism, the democratic debate and special participation of women, youngsters, ethnic groups and other sectors excluded from politics, and, in general, democratic debate.
- e) Negotiation. The achievement of peace implies the primary usage of dialogue and negotiation as prompt procedures for demilitarization of national, departmental, municipal and territorial social and political conflicts.
- f) Gradualness. A solid peace is only built in a continuous and gradual process of integral, solidary, responsible, participative and negotiated solutions.
- g) Territorial approach. It will be tended to because the peace policies incorporate a recognition of the diversity (ethnic and cultural) and to the territorial and population characteristics, the needs and economic, cultural and social peculiarities of the territories, people, and communities; a differential comprehension of the impacts of the internal armed conflict in the territories, its conflicts and their visions of peace.
- h) Differential approach. It will be tended to because the peace policies count on a differential approach on gender, women, age, ethnic groups, peasant community, victims, sexual diversity, and disability condition. The peace policies will have special emphasis in women, boys, girls, and teenagers' situations.

ARTICLE 4. Be modified the Article 2 of Ordinance 002 of 2017, which will state:

ARTICLE 2: COMPOSITION. The Departmental Council will be composed of:

- The Governor of the Department or its delegate, who will preside over.
- a) The Executive Branch of Public Power (Rama Ejecutiva del Poder Público):
 - A representative of the Administrative Unit for Victims Compensation.
 - A representative of the Department for Social Prosperity (DPS) or whoever does their part.
 - The Departmental Secretariats of Government, Social Development, and Planning.
 - CORALINA's Director who procures the protection and care for the environment of the island "Seaflower Biosphere Reserve".
 - The Mayors of the Municipalities of the Department Archipelago or its delegates.
 - For military or police affairs, members of the Public Force can be invited.
- b) Legislative Branch of Public Power (Rama Legislativa del Poder Público):
 - Two representatives of the Departmental Assembly (one of them will be part of the political minorities).
 - A representative of each Municipal Council or the corporation that does their part.
- c) State Control Bodies.
 - The Regional Prosecutor.
 - The Departmental or Regional Ombudsman.
 - A representative of the municipal spokespeople.
- d) For Civil Society:
 - Two representatives of the Raizal Transitory Authority or who does their times.
 - A representative designated by the Apostolic Vicariate.
 - A representative chosen by the Baptist Church Association.

- A representative chosen by the other churches and religious confessions.
- A representative chosen by the Islands Workers syndicate.
- A representative chosen by the Community Action Association of the islands.
- A representative of the Parties and Political Movements with a legal persona and presence in the Archipelago.
- A representative of the Judges Organization and judiciary officials.
- A representative of organizations of retired officials and sub-officials of the Public Force.
- A representative of the Chamber of Commerce and Unions of the Archipelago.
- A representative of the Independent Business Sector.
- A representative of Farmer and Artisanal or Ethnic Fishermen Associations or Organizations.
- A representative chosen by the Raizal People, properly registered in the Department.
- A representative of the Afro associations or organizations in the islands.
- A representative of Indigenous associations or organizations in the islands.
- A representative of Youth organization properly inscribed in the Archipelago.
- A representative of the organizations that work for achieving peace
- A representative of the organizations that work for the promotion and protection of human rights, Ethnic rights and International Humanitarian Law.
- A representative of the organizations registered in the Archipelago and whose objective is protection and care of women's rights.
- A representative of the organizations registered in the Archipelago and whose objective is protection and care of children's rights.
- A representative of Arts and Culture promoters properly known and registered.
- A representative of the LGBTI community.
- Two representatives of the people with disability situation, one of them will be from the Raizal People.
- A representative of Massive and Community Communication Media.
- A representative of the universities and higher education institutions.
- A representative chosen by the victims and people displaced by violence, currently located in the Archipelago.
- A representative chosen by the victims and people displaced by violence or related actions from the Raizal People in the Archipelago or elsewhere.

ARTICLE 5. Be modified the Paragraphs 1, 3, 5, 6, and 7 of the Article 2 of Ordinance 002 of 2017 and be added a new Paragraph to the Article in mention, which shall state:

PARAGRAPH 1: The Departmental Council can begin sessions when the two third parts of its members have been elected or designated. The election or designation the representatives of the public sector in the Departmental Council will be done this way: a) The Governors or Mayors will designate their representatives. B) The Councilors through an association or direct election. C) The Directive Board of the Departmental Assembly designates their representatives. In the case there is any controversy with the election of any member of the civil society, the Departmental Council can appoint a representative for the maximum 6 months. The Departmental Government will rule over the election mechanism of the council members, guaranteeing the autonomy of the sectors and organizations in the election of its representatives.

PARAGRAPH 3: The participation of the members of the Island's civil society and the Ethnic Raizal People in the hereby Council does not bar the participation of other instances of work for Peace. The assistance to the sections of the Department Council is non-delegable.

PARAGRAPH 5: CALL FOR ELECTION. To preserve the democratic participation and equity of opportunities in the election of the members of The Departmental Council; the Secretariat of Government will call for election the appointed organizations according to the Article 4 of Law 434 of 1998, and other concordant rules, so their representatives be chosen and communicate such decision within the twenty (20) days after the publishing of the decree.

PARAGRAPH 6: INSTALLATION. The installation of The Peace, Reconciliation, Human Rights, and Ethnic Rights Departmental Council in the Archipelago of San Andres, Old Providence and Kethleena will take effect in a public act presided by the Governor of the Department, when the time of the terms appointed in the precedent articles have finished and the two third parts of the members have been chosen. In case contrary, the Secretariat of Government will be inclined to continue with the organization and election of the members of the Departmental Council in the shortest time possible.

PARAGRAPH 7: REPLACEMENTS. The Departmental Council in its internal regulations and in agreement with the established in the Articles 4 and 12 of Law 434 of 1998, the Decrees 352 of 1998 and 885 of 2017, and other concordant regulations, will establish the events in which it might be necessary to replace any of its members for controversy with such election. For this purpose, The Peace, Reconciliation, Human Rights, and Ethnic Rights Departmental Council will request the corresponding sector the designation or election of its representative. In the case this cannot happen, the Council will determine the means to do so.

PARAGRAPH 8: It is understood it is controversy over the election of a member of any organization of the Civil Society and Ethnic Raizal People of the Departmental Council the following cases: a) When the organization of the civil society or Ethnic Raizal People that complies with the appointed requirements in this Ordinance and that belongs to the corresponding sector opposes the designation or election of its representative of the Technical Secretary of the Departmental Council. b) When the Council is installed, a decision has not been able to be taken in the corresponding sector. c) When it is necessary to replace one of its members and two months later it has not been possible to designate or elect through the general procedure provided in this Ordinance.

ARTICLE 6. Be modified the Article 3 of Ordinance 002 of 2017, which will state:

ARTICLE 3: FUNCTIONNING. The Departmental Council will get together every 4 months with no prejudice if the Governor, the Technical Secretary or the 40% of the members of the Council summons to extraordinary sessions, when circumstances in the Islands and Ethnic territory so advises to or public convenience so requires it. Not attending without just cause to the Council meetings will be a cause of misconduct for the officials that integrates it.

ARTICLE 7. Be modified the Letter C of Number 2 of Article 4 of Ordinance 002 of 2017, be added a new Letter to the same Number and be added a new Number to Article 4 of that Ordinance. Be modified Number 3 of that Article, be renumbered the Numbers 3, 4 and 5 and be added a new Paragraph in the following way:

ARTICLE 4: FUNCTIONS. The Departmental Council will be consisted of and execute akin functions to the National Peace Council and, particularly, will have the following functions:
(...)

2. As a facilitator of harmonious collaboration among the entities and bodies of the State:

(...)

c) Promote the creation of Municipal or Territorial Councils, coordinate their activities and dissemination of all rules about reconciliation, coexistence, human and ethnic rights.

h) Be this the central space in which there is convergence in a territorial level of all committees, work table, instances and participation mechanisms in peace, reconciliation, coexistence, no stigmatization, human rights and ethnic rights.

3. As a collaborator and assessor of the Government in:

a) The design and execution of a reconciliation, coexistence, and prevention of stigmatization program, with the participation of the territorial entities.

b) The promotion and respect for the difference, critics, and politic opposition.

c) The promotion and respect for the work done in pro of the construction of peace and reconciliation, different social and political movements and organizations.

d) The promotion and respect for the work done by different social, human rights and Ethnic rights organizations, particularly those who control the management of the government and those who oppose to their policies.

e) The promotion and no stigmatization of groups in vulnerability conditions or discriminated as women, towns and ethnic communities, LGBTI population, youngsters, boys and girls, senior adults, handicapped people, political minorities and religious minorities.

f) The startup of training programs for public servants and leaders of social organizations and movements to guarantee no stigmatization.

4. Present a public report to the Departmental Assembly about their actions, every six months.

5. Dictate its own regulations.

PARAGRAPH. In agreement with Article 13 of law 434 of 1998, the latter functions and acts in general of the Departmental Council must be made in coordination with the National Committee and in agreement with the guidelines and parameters that it appoints.

ARTICLE 8. Be the Article 5 of Ordinance 002 of 2017 modified, and shall state:

ARTICLE 5: The Peace, Reconciliation, Human Rights, and Ethnic Rights Departmental Council. The Departmental Council will designate a Committee out of its own members, as a body to execute all functions delegated by the Governor and those that are assigned or delegated by the Departmental Council, in conformity with its internal regulations. The Committee will be composed of five (13) members of the Council, at least 7 of them representing the islander civil society and Ethnic Raizal People, 3 representing the State and 3 more chosen freely by those who make up the Departmental Council. The participation of women must be guaranteed.

The election of the Committee will be established in the set of rules referred to in the latter article. In the exercise of the Committee's own functions, its members will be subject to the control of the Public Ministry.

ARTICLE 9. Be the Article 8 of Ordinance 002 of 2017 modified, and shall state:

ARTICLE 8: TECHNICAL SECRETARIAT. The Technical Secretariat of The Peace, Reconciliation, Human Rights, and Ethnic Rights Departmental Council will be exercised by 2

representatives of its own, one shall be the Secretariat of Government and the other by a representative of the islands civil society or the Ethnic Raizal People, chosen by the Departmental Committee under the terms of the rules the Council determines. The functions of the Technical Secretariat, among others, are to: a) Coordinate, direct, and accompany the development and implementation of the agreements, dispositions, projects, and suggestions deriving from the Departmental Council; b) Develop and implement the inter-institutional coordination. c) All others assigned by the Departmental Council.

ARTICLE 10. Be the Article 10 of Ordinance 002 of 2017 modified, and shall state:

ARTICLE 10: TERM. The public servants will be members of the Departmental Council as long as they hold their respective position. The members of the Islander Civil Society and the Ethnic Raizal People will be members of the Council until being replaced by the organizations or associations they represent and, in any case, won't be able to remain more than 4 years in this position.

ARTICLE 11. Be the Article 13 of the Ordinance 002 of 2017 modified, and shall state:

ARTICLE 13: SOCIAL INVESTMENT FOR PEACE. The Governor will determine the communities or sectors of the Archipelago in which priority social investment programs will be held for Peace, Reconciliation, coexistence, no stigmatization, Human Rights, and Ethnic Rights policies purposes this ordinance refers to. The same must be taken into account during the elaboration and execution of the Departmental Budget and the decentralized Departmental entities.

PARAGRAPH: Be the Departmental Government given faculty so, within the term of 7 months after this Ordinance is published and sanctioned, it constructs and institutes a Peace, Reconciliation, Coexistence, Human Rights and Ethnic Rights and no stigmatization Public Policy in the Archipelago of San Andres, Old Providence, and Kethleena, as a fundamental component of the Peace Departmental Council.

ARTICLE 12. VALIDITY. The ordinance hereby goes into effect from the moment it is sanctioned and published.

Approved at the Hall of Sessions of the Honorable Departmental Assembly, during its ordinary session on April 30th of 2018.


JOSE MITCHELL HUDGSON
President


JENIFER BENT OLMOS
General Secretary

THE DEPARTMENTAL ASSEMBLY OF SAN ANDRES, PROVIDENCE, AND KETHLEENA, THE GENERAL SECRETARY OF THE DEPARTMENTAL ASSEMBLY OF SAN ANDRES, PROVIDENCE AND KETHLEENA CERTIFIES that this ordinance went under the three obligatory debates in different dates and extraordinary sessions: **FIRST DEBATE IN COMISSION** on April 25 2018; **SECOND PLENARY DEBATE** on April 28, 2017; **THIRD PLENARY DEBATE**, on April 30, 2018; becoming the Ordinance 002 of April 30, 2018.


JENIFER BENT OLMOS
General Secretary



GOBERNACIÓN

Departamento Archipiélago de San Andrés,
Providencia y Santa Catalina
Reserva de Biosfera Scaflower
Nit: 892.400.038-2

CONTINUATION OF THE **ORDINANCE No. 002 OF 2018** "BY MEANS OF WHICH THE ORDINANCE 002 OF 2017 (PEACE DEPARTMENTAL COUNCIL) IS MODIFIED AND OTHER REGULATIONS ARE DICTATED."

DEPARTMENT ARCHIPELAGO OF SAN ANDRES, OLD PROVIDENCE, AND KETHLEENA.

PRIVATE SECRETARY: In San Andres island, on May 8, 2018, I received the Ordinance hereby and hand it to the Governor's Office for its sanction.

VANESSA CORREAL CAMARGO
Private Secretary

GOVERNOR'S OFFICE, San Andres Island, May 15, 2018.

BE IT EXECUTED AND COMPLIED

SANDRA HOWARD TAYLOR
Governor (E)