WHEREAS, the Philippine Constitution provides that the state shall recognize, respect and protect the rights of Indigenous Peoples group to preserve and develop their cultures, traditions and institutions and it shall consider these rights in the formulation of national laws and policies;

WHEREAS, the state recognizes its obligations to protect the rights of the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) and guarantees respect for their cultural integrity, and to ensure that they benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population;

WHEREAS, to fully complement these policies and to recognize, protect and promote the rights of the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs), the Philippine Congress, on October 29, 1997, enacted Republic Act 8371 also known as the Indigenous Peoples Rights Act of 1997, thereby providing among others, the creation of the National Commission of Indigenous People (NCIP);
WHEREAS, Section 16 of the RA 7160 provides, among others, that Indigenous Peoples have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies, and that they shall be given mandatory representation in policy-making bodies and other local legislative councils;

WHEREAS, the selection of the ICCs/IPs representative to the local legislative council shall be in accordance with the Local Guideline that the concerned ICCs/IPs shall adopt and promulgate, which considers the cycle of traditional or local activities, and must be compliant to the NCIP Administrative Order No. 001 Series of 2009;

WHEREAS, Department of Interior and Local Government also issued memorandum Circular No. 2010-119 directing all local government units to strictly comply with the mandatory representation of ICCs/IPs in the local sanggunian;

WHEREAS, the City of General Santos recognizes the Indigenous Peoples’ right to participate in ensuring that rendering of services be more responsive to the needs and desires of their communities, thus recognizes the need of having an Indigenous Peoples mandatory representation in the Sanggunian;

WHEREAS, there is a need to provide guidelines in order to establish the processes and mechanism for the mandatory representation of Indigenous Peoples in the Sangguniang Panlungsod pursuant to the provisions of Republic Act 8371, otherwise known as the Indigenous Peoples’ Rights Act (IPRA) of 1997;

NOW, THEREFORE, on motion of City Councilor Rosalita T. Nunez for joint sponsorship, duly seconded by City Councilors Elizabeth B. Bagonoc, Shandee Theresa O. Llido-Pestaño, Ramon R. Melliza, Franklin M. Gacal, Jr., Brix T. Tan, Richard L. Atendido, Eduardo D. Leyson IV, Marius Orlando A. Oco and Rogelio D. Pacquiao, be it-

RESOLVED, as it is hereby resolved, to enact the following Ordinance:

**ORDINANCE NO. 08**
Series of 2014

**AN ORDINANCE PRESCRIBING THE GUIDELINES FOR THE MANDATORY REPRESENTATION OF THE INDIGENOUS PEOPLES IN THE SANGGUNIANG PANLUNGSOD OF GENERAL SANTOS CITY**

Hon. Shirlyn L. Bañas-Nograles- Author
Hon. Rosalita T. Nunez, Hon. Ramon T. Melliza,
Hon. Dominador S. Lagare III – Co-Authors
Joint Sponsorship

Be it ordained by the Sangguniang Panlungsod of General Santos City, that
Section 1. Short Title.- This ordinance shall be otherwise known as the Indigenous Peoples representation to the Sangguniang Panlungsod Ordinance.

Section 2. Statutory Basis.- This Ordinance is enacted pursuant to the provisions of R.A. 7160, otherwise known as the Revised Local Government Code of 1991. Section 10, Article II of the 1987 Philippine Constitution provides that the State shall promote social justice in all phases of national development. Section 17, Article XIV of the 1987 Philippine Constitution also provides that the State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies.

To carry out these State policies, Section 16 of RA 8371 provides that the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures. Consequently, the State shall ensure that the ICCs/IPs shall be given mandatory representation in policymaking bodies and other local legislative councils.

In addition, Section 6, Part I, Rule IV of the National Commission on Indigenous Peoples (NCIP) Administrative Order No. 1, Series of 1998, or the Implementing Rules and Regulations (IRR) of RA 8371 provides that the ICCs/IPs shall be provided mandatory representation in all policymaking bodies and in local legislative councils. ICCs/IPs representation shall be proportionate to their population, and shall have the same privileges as the regular members of the legislative bodies and/or policy making bodies.

Section 3. Declaration of Policy. - Pursuant to the provisions of the international and national policy instruments, it is the policy of the City Government of General Santos to prescribe the guidelines for the mandatory representation of the Indigenous Peoples in the Sangguniang Panlungsod of General Santos City, to:

a. Promote and protect the political, civil, economic, social and cultural right of the ICCs/IPs through participation in the Government and in the conduct of public affairs as provided in Paragraph c, Article 5 of the International Convention on the Elimination of All forms of Racial Discrimination (ICERD);

b. Ensure the fulfillment of the ICCs/IPs right to full participation in the political, economic, social and cultural life of the states as provided in Article 5 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as well as the right to participate in decision-making through their chosen representatives as provided in Article 18 of the same instrument;

c. Enhance State recognition and promotion of rights of ICCs/IPs within the framework of national unity and development as expressed in Section 22, Article II of the 1987 Philippine Constitution; and

d. Adopt, coordinate and enforce the provision of Section 16 of RA 8371 on the mandatory representation ICCs/IPs in local legislative councils and policymaking bodies.
Section 4. Operating Principles. - In the implementation of this ordinance, the following principles shall be observed:

a. Primacy of customary laws and practices.- Customary laws and practices shall prevail upon mainstream mechanisms in the manner of selecting the mandatory representatives to the local legislative councils of the ICCs/IPs. Moreover, customary laws and practices shall be used primarily to resolve disputes in the selection process;

b. Consensus Building refers to the process of arriving at a decision by the ICCs/IPs on issues and concerns affecting them by employing their own traditional decision-making processes;

c. Inclusivity and full participation.- The NCIP shall ensure that all ICCs/IPs residing with the political jurisdiction of General Santos City shall actively participate in the selection process;

d. Representation of the collective interests and aspirations of ICCs/IPs.- The IP mandatory representative to the legislative council shall represent the general concerns and welfare of all the ICCs/IPs in General Santos City;

e. Sustainability of the Indigenous Peoples Consultative Body.- The ICCs/IPs mandatory representative shall provide support in sustaining the constitution and operations of the Indigenous Peoples Consultative Body (IPCB) at his/her level of representation, either at the barangay or city level;

f. Capacity building.- The skills and capabilities of IP mandatory representatives to engage effectively and efficiently in mainstream governance as well as to preserve and exercise their traditional political structures in their respective communities shall be enhanced through culture sensitive training modules, taking into primary consideration the cultural diversities of the ICCs/IPs, to be developed and regularly implemented by the NCIP in partnership with the Department of the Interior and Local Government (DILG) and the City Government of General Santos, other government agencies/offices and the civil society; and

g. Gender equity and sectoral representation.- ICC/IP women and youth shall enjoy equal rights and opportunities in the selection process as provided in Sections 26 and 27 of RA 8371.

Section 5. Coverage. - All Indigenous Cultural Communities/Indigenous Peoples ICCs/IPs residing within the ancestral domains and/or resettled communities within the political jurisdiction or boundaries of the City of General Santos may be represented in the Sangguniang Panlungsod. However, in cases where an ancestral domain or resettled community is overlapped by two (2) or more political boundaries of the LGUs, only the members of the ICCs/IPs who reside in General Santos City may take part in the selection of the Indigenous Peoples mandatory representative.
Section 6. Definition of Terms. - For purposes of this ordinance, the following terms shall mean:

a. Indigenous Cultural Communities/Indigenous Peoples- refer to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits or who have through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time inroads of non-indigenous religions and cultures, or the establishment of the present state boundaries who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

b. Customary Law- refers to a body of written or unwritten rules, usages, customs and practices traditionally and continually recognized, accepted and observed by the respective ICCs/IPs.

c. Validation - is the process of checking the legitimacy of a certain claim/interest according to the oral declaration and the documents presented, pursuant to the guidelines of the NCIP. It is intended also to supplement information in order to reach a credible decision.

d. Resettled ICCs/IPs- refer to the two groups clarified below:

    B1. Forcibly resettled ICCs/IPs-refer to the ICCs/IPs who, as a consequence of social, economic, political or other reasons such as displacement due to natural disasters, development aggression and armed conflict, were, against their own free will, resettled outside of the ancestral domains/lands.

    B2. Voluntary resettled ICCs/IPs- refer to ICCs/IPs who, as a consequence of social, economic, political or other reasons such as search for work opted to resettle or resettled out of their own free will outside of their ancestral domains/lands.

e. Ancestral Domains- refer to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects or any voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable
and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators. It shall refer to all commonly accepted or publicly known ancestral domains of ICCs/IPs whether or not issued with a CADC or CADT, or whose application for issuance of CADT is still pending before the Commission or is not actually applied for.

f. Elders/Leaders- refer to member of ICCs/IPs, who are regarded by ICCs/IPs with a certain degree of wisdom, integrity, esteem and dignity, and who are generally relied upon by community members as leaders in the pursuit of community concerns.

g. Indigenous Peoples Consultative Body- refers to the consultative body consisting of the traditional leaders, elders and representatives from the women and youth sectors of the different ICCs/IPs as provided in Section 50 of IPRA and NCIP Administrative Order No. 1, Series of 2004, or the "Rules Governing the Indigenous Peoples Consultative Body." The Consultative Body shall be the consultative arm of the NCIP to advise it on matters relating to the problems, aspirations and interest of the indigenous People's community.

h. Peoples Organization (PO)- refers to any private non-profit voluntary organization of members of particular ICCs/IPs which is recognized as representative of such ICC/IP.

i. Civil Society- refers to the totality of voluntary civic and social organization and institutions that form the basis of a functioning society. Civil societies are often populated by organizations such as registered charities, development non-government organizations, community groups, women's organization, faith-based organizations, professional associations, trade unions, self-help groups, social movements, business associations, coalition and advocacy groups.

**Section 7. Objectives.-** This ordinance is hereby promulgated for the purpose of setting-up, selecting and capacitating Indigenous Peoples mandatory representative in the Sangguniang Panlungsod. It shall:

a. Provide and operationalize a mechanism adaptable to the peculiar situations of ICCs/IPs in the City of General Santos;

b. Ensure state recognition of the exercise of the primacy of customary ways & practices;

c. Ensure participation of the ICCs/IPs elders/leaders including representatives from the women, youth and children sectors;

d. Ensure the collective representation of the general interests and aspirations of ICCs/IPs;

e. Provide a venue for capacity building and empowerment;
f. Facilitate the over-all active participation of ICCs/ IPs making use of the rights-based approach in governance and development

Section 8. Indigenous Peoples Representative to the Sanggunian. - The Indigenous Peoples Representative to the Sangguniang Panlungsod are those who are recognized by law as Indigenous Peoples of General Santos City. The Indigenous Peoples Representative shall be selected according to Republic Act 8371, otherwise known as the Indigenous Peoples Rights’ Act.

Section 9. Powers, Duties and Functions. - The IP representative selected in accordance with these rules shall act as a regular member of the Sangguniang Panlungsod of General Santos City and shall have the same powers and functions corresponding to a regular member thereof as provided under the Local Government Code of 1991 and other applicable laws.

The IP representative however, shall have the primary responsibility of adopting measures for the common interests of ICCs/IPs, ensure support for the sustained constitution and operations of the IPCB in General Santos City; and maintain the development and practice of ICCs/IPs traditional leadership titles and structures, justice systems, conflict resolution institutions, and peace building mechanisms and processes that are compatible with the traditional legal system and with internationally-recognized human rights.

Section 10. Minimum Qualifications. – The following shall be the minimum requirements to qualify for ICC/IP representative to the Sangguniang Panlungsod;

a. The IP representative must be a natural born Filipino citizen;

b. He/She must be a registered voter in the General Santos City;

c. He/She must be a bona fide IP by blood or consanguinity, an acknowledged leader of the ICCs/IPs of which he/she is a member, and has continually engaged in ICCs/IPs undertakings setting up a track record of services for ICCs/IPs in General Santos City as certified by the NCIP;

d. He/She must be able to read and write;

e. He/She must be knowledgeable of, and practices the customary ways of the ICCs/IPs of which he/she is a member; and

f. The IP representative must have a Certificate of Affirmation from the NCIP.

Section 11. Disqualifications. – Any person suffering from or characterized by any one of the following circumstances shall not be eligible to represent the ICCs/IPs;

a. Convicted by final judgment by the council of elders of concerned ICCs/IPs for violating their customs and traditions, as validated by the NCIP;
b. Sentenced by final judgment for an offense involving moral turpitude or of an offense punishable by one (1) year or more of imprisonment within two (2) years after serving sentence;

c. Removed from office as a result of an administrative case;

d. Convicted by final judgment for violating the oath of allegiance to the Republic of the Philippines;

e. Possession of dual citizenship;

f. Fugitive from justice, inside or outside the country;

g. Permanent resident in a foreign country or has acquired the right to reside abroad and continues to avail of the same right; and,

h. Insane or feeble-minded based on the findings of competent authorities.

Section 12. Manner of Selection. - In the selection of the IP mandatory representative, the following procedures shall be observed:

a. The ICC/IP shall inform the NCIP of its written intent to select its IP representative;

b. The ICC/IP then selects its IP representative in accordance with its customary law and thereafter they shall append to these local guidelines a written document of its customary law of selecting its respective IP representative;

c. The selection process shall be facilitated by the NCIP whose task is to validate and document the same, with the assistance of the City Government of General Santos and Department of Interior and Local Government (DILG);

d. Upon the selection of the IP representative, the NCIP Regional Director shall issue a Certificate of Affirmation (COA) upon the recommendation of the Provincial Officer;

e. The NCIP Regional Office shall submit to the DILG and to the City Government of General Santos, a copy of its issued Certificate Of Affirmation of the selected representative, including all documents appurtenant thereto, with a copy furnished the NCIP Central Office.

f. The selected IP representative shall take his oath of office before any person authorized to administer oaths and shall inform the Sangguniang Panlungsod of His/Her assumption.

Section 13. Assumption to Office.- The assumption to office of the IP mandatory representative shall take place as soon as the selection process is formally certified by the concerned NCIP Regional Director, upon recommendation of the Provincial or Community Service Center Head, as the case may be, to be in accordance
with this the NCIP Administrative Order No. 12, Series of 2012 and the person chosen takes the appropriate oath before an authorized officer and informs the appropriate body/ies of his/her assumption.

Section 14. Vacancy. - In case of vacancy, the ICC/IP concerned shall select a replacement in accordance with Section 10 hereof. The vacancy before the end of the term of office of an incumbent shall be filled up by a new representative coming from the same tribe incumbent. The new representative shall only serve the unexpired term.

Section 15. Disciplinary Action. - An Indigenous Peoples Mandatory Representative may be disciplined, suspended, or removed from office on any of the following grounds:

a. Disloyalty to the Republic of the Philippines;

b. Culpable violation of the Constitution;

c. Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;

d. Commission of any offense involving moral turpitude or an offense punishable by at least prison mayor;

e. Abuse of authority;

f. Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and

g. Such other grounds as may be provided in the Local Government Code of 1991, R.A 6731 otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees; the Administrative Code of 1987 and all other applicable laws.

An IP mandatory representative may be removed from office on the grounds enumerated above by order of the proper court.

Section 16. Term of Office. - The term of office of the IPs mandatory representative in the Sangguniang Panlungsod shall be for a period of three (3) years and the reckoning period shall be from the date of assumption to office. In case there are more than one recognized IP Groups, their representatives shall take a term at a time. The IP Group that could first present their Certificate of Affirmation and the other requirements from the National Commission on Indigenous Peoples shall serve first.

Section 17. Compensation and Benefits. - The compensation, benefits and other emoluments of the ICC/IP representative shall be the same with that of the regular members of the Sangguniang Panlungsod as prescribed in R.A. 7160 and other applicable laws.
Section 18. Replacement of ICC/IP Representative. - The ICC/IP mandatory representative may be replaced, without need of court order at anytime for loss of confidence by the ICC/IP tribe which he/she belongs.

A replacement may be initiated by the filing of a written intent to replace the IP representative to the IPCB by any member of the ICC/IP of the City of General Santos. The ICPB shall endorse such written intent to replace the IP representative to the Tribal Council to which the IP representative belongs. The Tribal Council shall determine if the intent to replace the IP representative is meritorious and shall decide accordingly. The decision of the Tribal Council must be signed by the majority or all members of the ICC/IP to which such IP representative belongs;

No written intent to replace an IP representative shall be initiated or entertained within one (1) year from the date of the IP representative's assumption to office or within one (1) year immediately preceding the expiration of the term of the IP sought to be replaced. The replacement of an ICC/IP representative may be done only once every term.

Section 19. Budgetary Requirements. – For the implementation of this ordinance, the city government shall appropriate funds to be taken from the annual and supplemental budgets of the City of General Santos.

The Sangguniang Panlungsod shall appropriate funds covering the salaries and appropriate benefits and/or emoluments of the IP Representative the same with that received by the regular members of the Sangguniang Panlungsod as prescribed under existing laws.

Section 20. Amendments. - Any amendment to these guidelines may be initiated, by any member of the ICC/IPs by a written proposal to amend the rules submitted to the IPCB. The latter shall then assist in the drafting of the amendments to these guidelines. The amended guidelines shall be adopted in the same manner as the approval of the same.

Section 21. Suppletory Clause. - In case of any insufficiency in the provisions of these rules, the existing law, rules and regulations shall be applied in a suppletory character.

Section 22. Separability Clause. - The declaration, unconstitutionality or invalidity of any provision of this Ordinance shall not affect other provisions not affected thereby.

Section 23. Repealing Clause. - All ordinances or orders, or part or parts thereof, insofar as inconsistent with the provisions of this Ordinance are hereby amended, repealed or modified accordingly.

Section 24. Effectivity. - This Ordinance shall take effect immediately after publication in a newspaper of general circulation within the city.
Enacted by the 17th Sangguniang Panlungsod, City of General Santos on its 46th Regular Session held on June 10, 2014.

CERTIFIED CORRECT:

VIRGINIA P. DIME, MPA
Asst. Secretary to the Sanggunian
OIC- Office of the Secretary to the Sangguniang Panlungsod

ATTESTED BY:

DOMINADOR S. LAGARE III
City Councilor and Presiding Officer

Approved by His Honor, the City Mayor on JUN 2 3 2014, 2014.

RONNEL C. RIVERA
City Mayor