



OCEANA Protecting the
World's Oceans

Primer on Municipal Waters and Jurisdiction of Local Governments



i Introduction

This Primer presents salient information on the Local Government Code and the amended Fisheries Code provision reserving the 15-km zone municipal waters for the artisanal fisherfolk under the jurisdiction of coastal cities and municipalities. It focuses on the significance of local autonomy, socio-economic conditions especially of local communities and municipal fisherfolk, environmental sustainability, and national and food security and the procedural and substantive rights of the citizens.

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Q What are municipal waters?

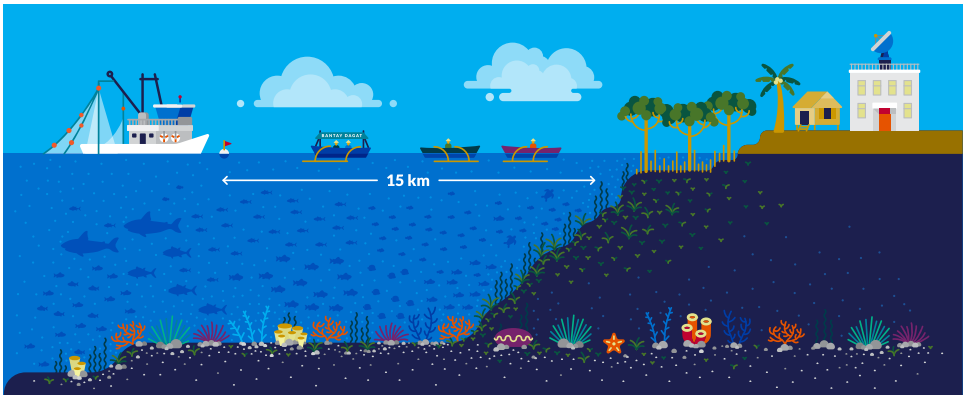
A These are waters within 15 kilometers of the coastline of cities/municipalities. These waters include streams, lakes, and tidal waters within the municipality not being included within protected areas, public forest, timber lands, forest reserves or fishery reserves

Q What are the applicable laws related to the protection of municipal waters?

- A** The duty to protect municipal waters can be found under the following laws:
- 1987 Constitution, Article II, Section 16 (Right to a Balanced & Healthful Ecology), Article II, Section 9 (Duty to Promote a Just and Dynamic Social Order), Article X (Local Autonomy), Article XII, Section 2 (Duty to Protect Marine Wealth and Priority for Subsistence Fishers) & Article XIII, Section 7 (Preferential Access to Communal Fishing Grounds)
 - RA 7160 or the Local Government Code of 1991, Section 16 & 17
 - RA 8550, the Fisheries Code of 1998 as amended by RA 10654
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Q Who are municipal or artisanal fisherfolk?

A They are individuals engaged in small-scale fishing activities within municipal waters using vessels of 3 gross tons or less, or those fishing without the use of vessels.¹





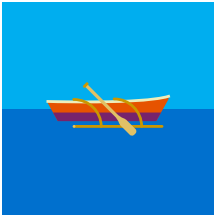
Who is allowed to conduct fishery activities within municipal waters?



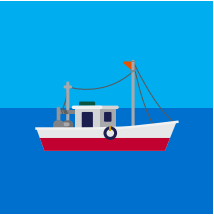
Registered municipal fisherfolk and their cooperatives using fishing vessels of 3 gross tons or less or those fishing without using fishing vessels.

Commercial fishing is banned except under certain rigid requirements.

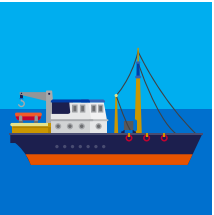
Commercial Fishing as defined under the Philippine Fisheries Code is the taking of fishery species by passive or active gear for trade, business & profit beyond subsistence or sports fishing, to be further classified as:



Small scale commercial fishing - fishing with passive or active gear utilizing fishing vessels of 3.1 gross tons (GT) up to twenty (20) GT;



Medium scale commercial fishing - fishing utilizing active gears and vessels of 20.1 GT up to one hundred fifty (150) GT; and



Large commercial fishing - fishing utilizing active gears and vessels of more than one hundred fifty (150) GT.



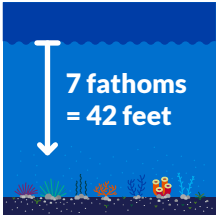
What are the conditions before commercial fishing is allowed by the coastal city or municipality?



As a general rule, commercial fishing is banned in municipal waters. However, there is an exception to the rule, subject to compliance with rigid requirements.

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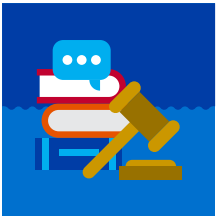
The municipal or city government through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate within the **ten point one (10.1) to fifteen (15) kilometer** area from the shoreline in municipal waters as defined herein, provided, that all the following are met:



No commercial fishing in municipal waters with depth less than seven (7) fathoms as certified by the appropriate agency; **Note: The National Mapping Authority is the sole agency with the authority to issue this certification.**



Fishing activities utilizing methods and gears that are determined to be consistent with national policies set by the Department; **Note: Hulbot-hulbot is banned.**



Prior consultation, through public hearing, with the M/CFARMC has been conducted; and



The applicant vessel as well as the shipowner, employer, captain and crew have been certified by the appropriate agency as not having violated this Code, environmental laws and related laws.

In addition, RA 10654 and FAO 266 require as a condition for registration or renewal of registration of commercial fishing vessels the installation of a tracking device to determine their identity and location. Commercial Fishing vessels not complying with the law and FAO 266 cannot engage in fishing activities.



Why are municipal fishers given preferential access to municipal waters, and why are they important?



Municipal waters have historically been reserved for the preferential use of small-scale, registered municipal fisherfolk in accordance with the Fisheries Code.

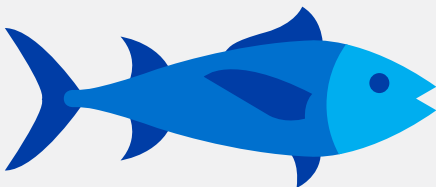
This preferential right is based on the social justice provision of the 1987 Constitution, specifically Article XIII, Section 7, which states that the State shall protect the rights of subsistence fishermen, especially within local communities, to the preferential use of communal marine and fishing resources, both inland and offshore. This reflects the ideal that “those who have less in life should have more in law.” This provision ensures that marginalized fishers, who depend on these waters for their livelihoods, are safeguarded against displacement by large-scale commercial fishing.²



Photo © Diuvs De Jesus

The municipal waters are highly productive areas hosting ecologically critical and interrelated ecosystems such as mangroves, seagrasses, and coral reef areas, which serve as breeding and nursery grounds for fish and other marine species. Limiting access prevents overfishing and habitat destruction caused by large-scale commercial fishing which uses sophisticated fishing gear that depletes fish stock rapidly.

Studies including BFAR’s Stock Assessment Program (NSAP) reveal that ninety percent (90%) of the 190 fish stocks, including top species³ and round scads, are overfished. Recent analyses of Fisheries Management Areas further confirm that key species have exceeded sustainable limits, highlighting the urgent need to protect municipal waters through science-based interventions for long-term resource sustainability, food security, and livelihoods.



90% of 190

fish stocks, including top species and round scads are **overfished**.

Q Why are local government units (LGUs) given jurisdiction over municipal waters?

A The enforcement of fishery laws within municipal waters is a devolved function, transferred from the national government to local governments, specifically cities and municipalities, as mandated by the 1987 Philippine Constitution and operationalized through the Local Government Code of 1991. This devolution is rooted in the fundamental constitutional principle of local autonomy, and system of decentralization which aims to create a more responsive and accountable local government structure, allowing LGUs to become self-reliant communities and effective partners in national development. By granting coastal cities and municipalities jurisdiction over municipal waters, the State ensures that local authorities, who are more attuned to the specific needs and conditions of their communities, can effectively manage and enforce fishery laws, protect the environment, promote sustainable use of aquatic resources and protect the livelihoods of local fisherfolk and their constituents.

Q What are the powers of LGUs within municipal waters?

A Under the General Welfare Clause of the Local Government Code, all local government units are granted the power to enact ordinances that promote health, safety, economic prosperity, social justice, peace and order, including the right of the people to a balanced and healthful ecology.⁴

Under Section 149 of the Local Government Code, coastal municipalities and cities have the exclusive power to grant fishery privileges within municipal waters; provided that duly registered organizations and cooperatives of marginal fishermen shall have the preferential right to such fishery privileges. They can also issue licenses for the operation of fishing vessels of three (3) tons or less, and they have the authority to prosecute any violation of the provisions of applicable fishery laws.

Q What is the mandate of Local Government Units (LGUs) with respect to municipal waters?

A Cities and municipalities are mandated to enforce fishery laws,⁵ as well as monitor and regulate fishery activities in their municipal waters.⁶ All local chief executives are tasked to enforce laws and regulations relating to pollution and environmental protection.⁷ At the same time, all local Sanggunians are tasked to enact ordinances to protect the environment and impose appropriate penalties for acts that endanger the environment, such as dynamite fishing and other forms of destructive fishing.⁸ In addition, to emphasize the crucial role of the local governments in prioritizing environmental protection as a devolved service to their constituents, DILG Memorandum Circular 2022-018 reiterates the mandates of local government units relative to projects covered by the Environmental Impact Assessment Act and related laws.

Q What are the impacts of a policy allowing commercial fishing in municipal waters?

A The policy significantly impacts municipal fisherfolk and the jurisdiction of local governments and enforcement agencies and ecological integrity. Allowing commercial fishers within the 15-km municipal waters opens the door for increased competition from commercial fishers. It could potentially undermine the livelihood and food security of small-scale fishers, raising concerns about equitable resource allocation and sustainable fisheries management.

The implications of legitimizing commercial fishing in municipal waters are grave:



Socio-Economic Impacts

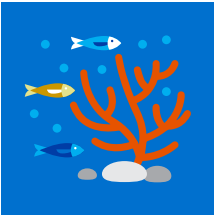
- The removal of preferential access for municipal fisherfolk to the 15-kilometer municipal waters threatens the livelihoods of small-scale fishers, who rely on these areas for sustenance and income;

- Increased competition with commercial fishers will likely lead to overfishing and resource depletion further marginalizing municipal fisherfolk and possible collapse of our fisheries;
- Reduced income and opportunities for municipal fisherfolk could exacerbate poverty in coastal communities and widen social inequality;



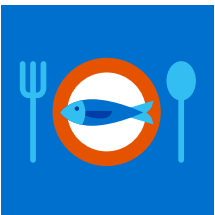
On Local Autonomy

- The jurisdiction of Local Government Units (LGUs) over municipal waters will be effectively removed, weakening their ability to regulate and manage marine resources at the local level;
- Local fishery ordinances, crafted to protect the rights of municipal fisherfolk and promote sustainable practices, may become unenforceable, undermining years of community-driven fisheries governance;
- It undermines local autonomy and could erode the trust and participation of local communities in fisheries management, as their influence over local waters diminishes;



Environmental Sustainability

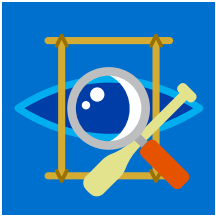
- Allowing commercial fishing in municipal waters may escalate environmental degradation, such as habitat destruction and bycatch of non-target species, as larger-scale operations tend to be less selective in their methods;
- Ongoing efforts to rehabilitate and recovery of fish stocks may be compromised;
- The exclusion of LGUs and fisherfolk from managing their waters may result in weaker enforcement of conservation measures, jeopardizing marine biodiversity and make ecosystems and people's health vulnerable to the impacts of anthropogenic pressures and climate change;



On National & Food Security

- Marine capture fisheries, already in decline due to overfishing and habitat degradation, are anticipated to face further stress, potentially leading to long-term resource collapse;

- Increased competition in municipal waters could drive small-scale fishers out of business, diminishing their contribution to local food supplies and endangering the country's overall food security;
- The loss of fish catches available to municipal fisherfolk will deepen food insecurity in rural and underserved areas, as commercial catches are predominantly distributed to urban centers or exported;
- It could lead to a reliance on more imports to meet domestic seafood demand, increasing vulnerability to external supply shocks and price volatility;



On Monitoring, Control and Surveillance (MCS) Initiatives to counter IUU Fishing

- Allowing commercial fishing within municipal waters undermines MCS reforms and initiatives aimed at addressing overfishing and the declining status of fish stocks. These include implementing vessel monitoring measures to restrict commercial fishers from municipal waters, adopting science-based fishery management practices, and introducing electronic reporting systems, among others,

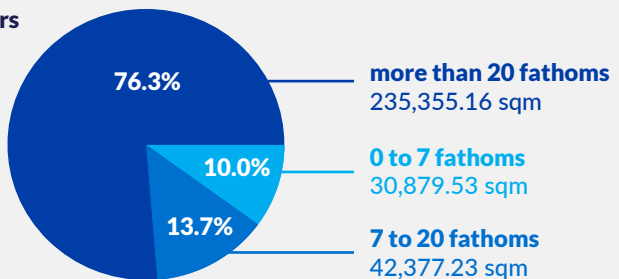
Q What percentage of the entire area of municipal waters in the Philippines is deeper than 7 fathoms?

A According to bathymetric data from the General Bathymetric Chart of the Oceans (GEBCO), 277,732.39 square kilometers, or 90% of the entire area of municipal waters in the Philippines is deeper than 7 fathoms. Only 10% of the entire municipal waters in the country measure less than 7 fathoms deep.⁹

Philippine Municipal Waters

Total Area:

308,611.92 sqm



*derived from The General Bathymetric Chart of the Oceans (GEBCO), <https://www.gebco.net/>



What can be done to protect municipal waters and the rights of the people to a healthful and balanced ecology?



Some possible courses of action include:

- Appeal to your mayor, governor, representatives in congress, and senators to resist attempts to disregard constitutional rights of preferential access of the municipal waters for municipal fisherfolk.
- Issue a statement of support in solidarity with groups and fisherfolk for the protection of municipal waters
- Help raise awareness and stakeholder action in social and traditional media

Photo © Diuvs De Jesus



Sources:

- ¹ Section 4, paragraphs 56 & 57, Republic Act No. 8550.
- ² Volume II, Deliberations of the 1986 Constitutional Commission. August 5, 1986 p. 709.
- ³ Ferrer, A & Santacera, P. *A Report on the Round Table Discussion (RTD) on the Proposed Amendment of Republic Act No. 10654 with Fisheries Scientists and Researchers.*
- ⁴ Section 16, Republic Act 7160.
- ⁵ Section 17(b)(2)(i), Republic Act 7160 (Local Government Code).
- ⁶ Department of Interior and Local Government Memorandum Circular 2018-59.
- ⁷ Sections 389(b)(9), 444(2) and 455(2), Republic Act 7160 (Local Government Code). Department of Interior and Local Government Memorandum Circular 2022-018.
- ⁸ Sections 447(a)(1)(vi)
- ⁹ Please see: 7 Fathoms Calculation based on GEBCO at <https://docs.google.com/spreadsheets/d/1UhrNvw9qj3nmndQjrANUzvmnAqw4ZfrC/edit?gid=225290613#gid=225290613>; Karagatan Patrol: <https://www.facebook.com/share/p/18o92DtVTG/> & FISHRIGHT Analysis: <https://www.facebook.com/share/p/1Atzd7gJgp/>

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