

# [ **PRESIDENTIAL DECREE NO. 1067, December 31, 1976** ]

## **A DECREE INSTITUTING A WATER CODE, THEREBY REVISING AND CONSOLIDATING THE LAWS GOVERNING THE OWNERSHIP, APPROPRIATION, UTILIZATION, EXPLOITATION, DEVELOPMENT, CONSERVATION AND PROTECTION OF WATER RESOURCES**

**WHEREAS**, Article XIV, Section 8 of the New Constitution of the Philippines provides, inter alia, that all waters of the Philippines belong to the State;

**WHEREAS**, existing water legislations are piece-meal and inadequate to cope with increasing scarcity of water and changing patterns of water use;

**WHEREAS**, there is a need for a Water Code based on rational concepts of integrated and multipurpose management of water resources and sufficiently flexible to adequately meet future developments;

**WHEREAS**, water is vital to national development and it has become increasingly necessary for government to intervene actively in improving the management of water resources;

**NOW, THEREFORE, I, FERDINAND E. MARCOS**, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby order and decree the enactment of the Water Code of the Philippines of 1976, as follows:

### **DECLARATION OF OBJECTIVES AND PRINCIPLES CHAPTER I**

ARTICLE 1. This Code shall be known as The Water Code of the Philippines.

ARTICLE 2. The objectives of this Code are:

- a. To establish the basic principles and framework relating to the appropriation, control and conservation of water resources to achieve the optimum development and rational utilization of these resources;
- b. To define the extent of the rights and obligations of water users and owners including the protection and regulation of such rights;
- c. To adopt a basic law governing the ownership, appropriation, utilization, exploitation, development, conservation and protection of water resources and rights to land related thereto; and
- d. To identify the administrative agencies which will enforce this Code.

ARTICLE 3. The underlying principles of this code are:

- a. All waters belong to the State.
- b. All waters that belong to the State can not be the subject to acquisitive prescription.

- c. The State may allow the use or development of waters by administrative concession.
- d. The utilization, exploitation, development, conservation and protection of water resources shall be subject to the control and regulation of the government through the National Water Resources Council, hereinafter referred to as the Council.
- e. Preference in the use and development of waters shall consider current usages and be responsive to the changing needs of the country.

ARTICLE 4. Waters, as used in this Code, refers to water under the grounds, water above the ground, water in the atmosphere and the waters of the sea within the territorial jurisdiction of the Philippines.

## **OWNERSHIP OF WATERS**

### **CHAPTER II**

ARTICLE 5. The following belong to the State:

- a. Rivers and their natural beds;
- b. Continuous or intermittent waters of springs and brooks running in their natural beds and the beds themselves;
- c. Natural lakes and lagoons;
- d. All other categories of surface waters such as water flowing over lands, water from rainfall whether natural or artificial, and water from agriculture runoff, seepage and drainage;
- e. Atmospheric water;
- f. Subterranean or ground waters; and
- g. Seawater.

ARTICLE 6. The following waters found on private lands also belong to the State:

- a. Continuous or intermittent waters rising on such lands;
- b. Lakes and lagoons naturally occurring on such lands;
- c. Rain water falling on such lands;
- d. Subterranean or ground waters; and
- e. Water in swamps and marshes.

The owner of the land where the water is found may use the same for domestic purposes without securing a permit, provided that such use shall be registered, when required by the Council. The Council, however, may regulate such use when there is wastage, or in times of emergency.

ARTICLE 7. Subject to the provisions of this Code, any person who captures or collects water by means of cisterns, tanks, or pools shall have exclusive control over such water and the right to dispose of the same.

ARTICLE 8. Water legally appropriated shall be subject to the control of the appropriator from the moment it reaches the appropriator's canal or aqueduct leading to the place where the water will be used or stored and, thereafter, so long as it is being beneficially used for the purposes for which it was appropriated.

### **APPROPRIATION OF WATERS**

#### **CHAPTER III**

ARTICLE 9. Waters may be appropriated and used in accordance with the provisions of this Code.

Appropriation of water, as used in this Code, is the acquisition of rights over the use of waters or the taking or diverting of waters from a natural source in the manner and for any purpose allowed by law.

ARTICLE 10. Water may be appropriated for the following purposes:

- a. Domestic
- b. Municipal
- c. Irrigation
- d. Power generation
- e. Fisheries
- f. Livestock raising
- g. Industrial
- h. Recreational, and
- i. Other purposes

Use of water for domestic purposes is the utilization of water for drinking, washing, bathing, cooking or other household needs, home gardens, and watering of lawns or domestic animals.

Use of water for municipal purposes is the utilization of water for supplying the water requirements of the community.

Use of water for irrigation is the utilization of water for producing agricultural crops.

Use of water for power generation is the utilization of water for producing electrical or mechanical power.

Use of water for fisheries is the utilization of water for the propagation and culture of fish as a commercial enterprise.

Use of water for livestock raising is the utilization of water for large herds or flocks of animals raised as a commercial enterprise.

Use of water for industrial purposes is the utilization of water in factories, industrial plants and mines, including the use of water as an ingredient of a finished product.

Use of water for recreational purposes is the utilization of water for swimming pools, bath houses, boating, water skiing, golf courses and other similar facilities in resorts

and other places of recreation.

ARTICLE 11. The State, for reasons of public policy, may declare waters not previously appropriated, in whole or in part, exempt from appropriation for any or all purposes and, thereupon, such waters may not be appropriated for those purposes.

ARTICLE 12. Waters appropriated for a particular purpose may be applied for another purpose only upon prior approval of the Council and on condition that the new use does not unduly prejudice the rights of other permittees, or require an increase in the volume of water.

ARTICLE 13. Except as otherwise herein provided, no person, including government instrumentalities or government-owned or controlled corporations, shall appropriate water without a water right, which shall be evidenced by a document known as a water permit.

Water right is the privilege granted by the government to appropriate and use water.

ARTICLE 14. Subject to the provisions of this Code concerning the control, protection, conservation, and regulation of the appropriation and use of waters, any person may appropriate or use natural bodies of water without securing a water permit for any of the following:

- a. Appropriation of water by means of hand-carried receptacles; and
- b. Bathing or washing, watering or dipping of domestic or farm animals, and navigation of watercrafts or transportation of logs and other objects by flotation.

ARTICLE 15. Only citizens of the Philippines, of legal age, as well as juridical persons, who are duly qualified by law to exploit and develop water resources, may apply for water permits.

ARTICLE 16. Any person who desires to obtain a water permit shall file an application with the Council who shall make known said application to the public for any protests.

In determining whether to grant or deny an application, the Council shall consider the following: protests filed, if any; prior permits granted; the availability of water; the water supply needed for beneficial use; possible adverse effects; land-use economics; and other relevant factors.

Upon approval of an application, a water permit shall be issued and recorded.

ARTICLE 17. The right to the use of water is deemed acquired as of the date of filing of the application for a water permit in case of approved permits, or as of the date of actual use in a case where no permit is required.

ARTICLE 18. All water permits granted shall be subject to conditions of beneficial use, adequate standards of design and construction, and such other terms and conditions as may be imposed by the Council.

Such permits shall specify the maximum amount of water which may be diverted or withdrawn, the maximum rate of diversion or withdrawal, the time or times during the year when water may be diverted or withdrawn, the point or points of diversion

or location of wells, the place of use, the purposes for which water may be used and such other requirements the Council deems desirable.

ARTICLE 19. Water rights may be leased or transferred in whole or in part to another person with prior approval of the Council, after due notice and hearing.

ARTICLE 20. The measure and limit of appropriation of water shall be beneficial use.

Beneficial use of water is the utilization of water in the right amount during the period that the water is needed for producing the benefits for which the water is appropriated.

ARTICLE 21. Standards of beneficial use shall be prescribed by the Council for the appropriator of water for different purposes and conditions, and the use of waters which are appropriated shall be measured and controlled in accordance therewith.

Excepting those for domestic use, every appropriator of water shall maintain water control and measuring devices, and keep records of water withdrawal. When required by the Council, all appropriators of water shall furnish information on water use.

ARTICLE 22. Between two or more appropriators of water from the same sources of supply, priority in time of appropriation shall give the better right, except that in times of emergency the use of water for domestic and municipal purposes shall have a better right over all other uses; Provided, That where water shortage is recurrent and the appropriator for municipal use has a lower priority in time of appropriation, then it shall be his duty to find an alternative source of supply in accordance with conditions prescribed by the Council.

ARTICLE 23. Priorities may be altered on grounds of greater beneficial use, multi-purpose use, and other similar grounds after due notice and hearing, subject to payment of compensation in proper cases.

ARTICLE 24. A water right shall be exercised in such a manner that the rights of third persons or of other appropriators are not prejudiced thereby.

ARTICLE 25. A holder of a water permit may demand the establishment of easements necessary for the construction and maintenance of the works and facilities needed for the beneficial use of the waters to be appropriated subject to the requirements of just compensation and to the following conditions:

- a. That he is the owner, lessee, mortgagee or one having real right over the land upon which he proposes to use water; and
- b. That the proposed easement is the most convenient and the least onerous to the servient estate.

Easements relating to the appropriation and use of waters may be modified by agreement of the contracting parties provided the same is not contrary to law or prejudicial to third persons.

ARTICLE 26. Where water shortage is recurrent, the use of the water pursuant to a permit may, in the interest of equitable distribution of benefits among legal appropriators, be reduced after due notice and hearing.