

EKITI STATE RIGHT OF WAY REGULATIONS, 2023.

MADE AT ADO-EKITI THIS 22.....DAY OF December.....2023

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EKITI STATE RIGHT OF WAY REGULATION, 2023

1. ENACTING FORMULA

In exercise of the power conferred on me by section 2 and 86 of the Ekiti State Urban and Regional Planning and Development Law No 3 of 2011, and all other power enabling me in that behalf, I, **RT. HON. TPL. KARONWI OLADAPO**, the Commissioner for Physical Planning and Urban Development hereby makes the following regulations and guidelines: Ekiti State Right Of Way Regulations, 2023

2. APPLICATION

These regulations shall apply to the establishment of a regulatory framework for Right of Way in Ekiti State

3. REQUIREMENTS FROM LICENSEE OPERATOR

A licensee operator under these Regulations shall;

- a) require approvals of the State Government for installation, placing, installing or maintenance of any network facilities ("Network Facilities") on, though, under or across any land and it shall be the responsibility of such licensees to obtain such approvals;
- b) in installing its Network Facilities, take all reasonable steps to ensure that the Operator causes as little detriment and inconvenience, and does as little damage, as is practicable;
- c) take all reasonable steps to restore the land to a condition that is similar to its condition before the activity began;
- d) , in connection with the installation of its Network Facilities, take all reasonable steps to:
 - act in accordance with good engineering practice;
 - protect the safety of persons and property;
 - ensure that the activity interferes as little as practicable with: (i) the operations of a public utility; (ii) public roads and paths ; (iii) the movement of traffic ; and (iv) the use of land ; and
 - protect the environment.
- e) shall take all reasonable efforts to enter into respective agreements with public utilities that make provision for the manner in which the licensee will engage in activities that are:(a) related to the installation of its Network Facilities, and (b) likely to affect the operations of the utility.

4. POWERS OF THE MINISTRY TO RECEIVE APPLICATIONS AND CHARGE FEE ON RIGHT OF WAY

The Ministry of Physical Planning and Urban Development shall have the power to receive applications or requests for approval for installation, placing, installing or maintenance of any telecommunications network facilities and charge fee from any licensee operator;

- a) The Ministry of Physical Planning and Urban Development may impose a lump sum fee in the maximum limit of N145 per linear metre in the exercise of the powers it holds by virtue of the Ekiti State Urban and Regional Planning and Development Law No 3 of 2011 for the installation, placing, laying or maintenance of the Network Facilities.
- b) No other Ministry, Department or Agency of Ekiti State is entitled to request or charge any fee with regard to the installation, placing, laying or maintenance of Network Facilities.

5. APPLICATION FOR RIGHT OF WAY PERMIT

Application shall be made to the Ministry of Physical Planning and Urban Development by the licensee operator for granting Right of Ways for installation, placing, laying or maintenance of any Network Facilities on, though, under or across any public land within Ekiti State clearly stating the purpose and duration of the occupation. The request shall be accompanied by a technical file describing the planned works, particularly:

- a) The route required, in line with the State's Road Inventory;
- b) The plan of the network showing the ways of passing and anchoring the installations;
- c) Proper starting and end points of the installation;
- d) In case of installation on or beside a road, the side of the road on which installation is intended (RHS or LHS);
- e) Exact length applied for in metres or the surface in m² and, if applicable, the height of the equipment/installation;
- f) Cross sectional dimension of intended trench excavation;
- g) Number of ducts to be laid;
- h) Type and capacity of ducts and cable to be laid.
- i) The technical data needed to assess the possibility of sharing existing facilities;
- j) Detailed layout diagrams for engineering structures and junctions;
- k) The general conditions for the organisation of the site and the name and address of the project manager;
- l) Excavation and backfill methods;
- m) Schematic diagrams showing the above;
- n) A schedule for the execution of the work, indicating the date of commencement and the foreseeable duration of the work.

6. ADDITIONAL REQUIREMENTS OF APPLICATION FOR RIGHT OF WAY

In addition to the requirements specified in section 5 above, every application shall contain the following information and documents:

- a) Name, designation, physical address telephone number and electronic mail address of the contact person of the Applicant;
- b) Corporate Affairs Commission Certificate;
- c) Route Location Map;

- d) Evidence of Current Tax Clearance;
- e) Evidence of current Ekiti State Development Levy; and
- f) Where such infrastructure is subject to a Physical Planning Technical Report by virtue of the Ekiti State Urban and Regional Planning and Development Law No 3 of 2011, a copy of such approval.

7. CONFIRMATION OF APPLICATION

The Ministry of Physical Planning and Urban Development shall examine the Application and shall, within two (2) working days of submission of the Application, confirm whether the Application is complete or whether there is any deficiency in the application. Where it considers that there is a deficiency in the application, it shall notify the Applicant in writing [or via email], specifying details of the deficiency and/or such additional information that it reasonably requires to evaluate the application.

8. SITE INSPECTION

Where the Application is satisfactory (and/or where the Applicant has made good any deficiency in the application), the Ministry of Physical Planning and Urban Development shall inform the Applicant and schedule a date for site inspection and/or joint measurements with five (5) working days.

9. DEMAND NOTICE

The Ministry of Physical Planning and Urban Development shall issue the Applicant a demand notice for the payment of all fees relating to the approval within two (2) working days after site inspection. The Applicant shall make the payment within three (3) days of receipt of the invoice.

10. RIGHT OF WAY PERMIT

Applications for Right of Way shall be granted by Ministry of Physical Planning and Urban Development within Twenty-One (21) Working Days of the submission of the application, the payment of the relevant fees, and the provision of all other relevant documentation and/or information prescribed in this Regulation.

11. GROUNDS FOR DENIAL OF APPLICATION

An approval relating to communications Infrastructure may be denied in the following cases;

- a. Where the applicant fails to provide the necessary information or to pay the relevant fees as stipulated and/or within the time stipulated in this Regulation.
- b. Where the grant of the Right of Way will be in contravention of the Dig-Once Policy specified of the State,
- c. Where the Nigerian Communications Commission notifies the Ministry of its disapproval of the deployment of such infrastructure on the grounds that the Applicant is not licensed to deploy such infrastructure or that the deployment does not satisfy its technical and/or standards.

- d. If the intended installation, placing, laying or maintenance of Network Facilities that could affect the integrity of the works and the safety of users shall be deemed incompatible with the use of the public domain.
- e. If the request can be met, under conditions equivalent to those that would result from granting Right of Way by the use of the existing facilities of another occupier of the public domain, if such use does not compromise the use of the facilities by that occupier.

12. NOTIFICATION OF APPROVAL / REJECTION OF AN APPLICATION FOR RIGHT OF WAY

Written statement for approval or rejection of an Application shall be issued to the Applicant within 21 days of the submission of such application. In the case of refusal, the Ministry of Physical Planning and Urban Development shall provide the Applicant a written statement identifying the reasons for its failure to approve and also state which office is responsible for the refusal.

13. CONDITIONAL PERMIT

Where the satisfaction of the request of a licensee operator would lead to the use of the whole of the public domain available for the use envisaged and would prevent any additional equivalent use, the Ministry of Physical Planning and Urban Development may make the granting of the Right of Way conditional on the licensee operator carrying out of works, such as installation of additional ducts to allow the subsequent sharing of the facilities with other operators, and the Licensee operator publishing the conditions of access to these facilities on its website or state website.

14. APPROVAL OF ADDITIONAL DUCTS

Without prejudice to the provisions of the above section 13, the Ministry of Physical Planning and Urban Development may impose on the licensee operator a requirement to install [2] additional ducts for redundancy to accommodate other licensees operators and avoid multiple excavations and trenching of roads that could compromise the integrity of roads and damage to previously laid cables or other infrastructure.

15. PROHIBITION OF EXCAVATING AND INSTALLING IN PUBLIC DOMAIN WITHOUT APPROVAL

No licensee operator shall commence any work before the Right of Way grant is duly communicated in writing to the licensee operator.

16. MAXIMUM PAYABLE FEE FOR RIGHT OF WAY

The granting of Right of Way on the public domain gives rise to the payment of fees which may not exceed:

- a) NGN145/ linear metre for laying of ducts and cables, per kilometre and per artery;
- b) NGN700,000 per site for Base transceiver station (BTS).

Artery means in the case of land or subsoil use, a duct containing or not containing cables, or a cable in the ground; in all other cases, all cables pulled between two supports.

17. DUTIES OF APPLICANT AFTER COMPLETION OF WORK

- a) An Applicant that has been granted a Right of Way shall provide the Ministry of Physical Planning and Urban Development with a copy of the "As Laid" drawing for each approval to guide the competent authorities in future rehabilitation, expansion and maintenance work on the public domain.
- b) The As-Laid drawings shall show the following for ducts and Cables laid:
 - i. Depth of the trenching
 - ii. Number of ducts laid
 - iii. Type and capacity ducts
 - iv. Types of cables
 - v. Depth of Markers
 - vi. Position of the ducts and relative to the road centre line
 - vii. Position of manholes
- c) On completion of the works, the Applicant shall obtain the appropriate completion certificate from competent authorities and forward a copy to the Ministry of Physical Planning and Urban Development.
- d) Relocation of ducts and cables during rehabilitation/construction of roads, if cables are found to obstruct road works, shall be carried out by the Applicant at its own expense.
- e) Digging or Damages to road/right of way during installation shall be reinstated to its original state within seven (7) days; or fourteen (14) days of installation of equipment by the Applicant.

18. SANCTIONS

The breach of these Regulation shall be punishable by any of the following:

- a) Fines up to NGN500,000
- b) Suspension of Right of Way
- c) Termination of Right of Way

19. INTERPRETATIONS

"Ministry" means Ekiti-State Ministry of Physical Planning and Urban Development

"State" means EKITI STATE of Nigeria.

20. CITATION AND COMMENCEMENT

These Regulations may be cited as the EKITI STATE RIGHT OF WAY REGULATIONS 2023 and shall come into force this.....22nd.....day of.....December.....2023.

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RT. HON. TPL. KAROUNWI OLADAPO
Hon. State Commissioner
Ekiti State Ministry of Physical Planning & Urban Development