

Assented to by me this.....day.....20.....

.....
Senator Abiola Ajimobi
His Excellency, The Executive Governor



OYO STATE OF NIGERIA

No.14

**A LAW TO ESTABLISH THE OYO STATE
INFRASTRUCTURE MAINTENANCE AND CONTROL
AGENCY TO CONTROL THE ERECTION AND
INSTALLATION OF MASTS, TOWERS AND
CABLES AND FOR OTHER MATTERS CONNECTED
THEREWITH.**

Date of Commencement. ()

Enactment. **ENACTED** by the House of Assembly
of Oyo State of Nigeria as follows:

Short Title. **1.** This Law is cited as the Oyo
State Infrastructure Maintenance
and Control Agency Law, 2016.

Interpretation. **2.**

In this Law –

“agency” means Oyo State Infrastructure Maintenance and Control Agency established under section 3 of this Law;

“co-location” means joint, additional or multiple use of an already existing structure;

“ex-officio member” means a person who is a member of the Board by virtue of his official duty, position or level in the employment of the civil service of the State;

“Government” means the Government of Oyo State of Nigeria;

“members” include Chairman;

“powers” include functions and duties;

“R.F. Emission” means Radioactive Frequency Emission;

“State” means Oyo State of Nigeria.

Establishment of the Agency.

3.(1) There is established an Agency to be known as the Oyo State Infrastructure Maintenance and Control Agency (referred to in this Law as the “Agency”).

- (2) The Agency shall –
 - (a) be a body corporate having perpetual succession;
 - (b) have a common seal;
 - (c) have the power to sue and be sued in its corporate name;and
 - (d) have power to acquire, hold, manage and dispose of any property, moveable or immovable for the purpose of carrying into effect the provisions of this Law.

Functions of the Agency.

- 4.** The Agency shall have the following functions to –
 - (a) establish standards and procedures for constructing lines and laying of cables across public lands and property;
 - (b) construct and co-ordinate schedules among utility service providers in the State;
 - (c) supervise the use, repair, resurfacing and construction of roads in the State damaged or broken for laying

- of other infrastructure including lines, cables and pipes;
- (d) ensure public safety in the use of public rights of way by installation of gas, telephone, power, water, cable (wireless and otherwise);
 - (e) ensure the control of all Rights of Way in the State;
 - (f) define the specification and quality of materials to be used by service providers in the construction and erection of towers in the State;
 - (g) keep track of the various systems using the public rights of way in order to prevent interference among facilities;
 - (h) monitor the erection of towers, masts and laying of cables within the State in the interest of public health and safety;
 - (i) prevent the breaking of roads without a permit;
 - (j) establish harmonized routes for laying of cables;

- (k) provide protection of the network of roads in the State;
- (l) reduce damage to public utilities;
- (m) co-ordinate and harmonise the routes used by private telecommunication operators;
- (n) perform such other functions as may be specified by any law or enactment; and
- (o) undertake such other activities as are necessarily expedient for giving full effect to the provision of this Law.

Powers of the Agency.

5.The Agency shall have the power to –

- (a) issue permits for the use of right of way to all telecommunication operators and other utility providers including power, gas, water, cable and related companies within the State;

- (b) disconnect and dismantle cables and other infrastructure laid or erected without obtaining the necessary permit from the Agency;
- (c) authorize any officer of the Agency to inspect any infrastructure for the purpose of determining whether it complies with the provisions of this Law and the regulations made hereunder and such inspection shall be between the hours of 8.00 a.m. and 5.00 p.m;
- (d) engage consultants to carry out the assessment, collection, remittance and monitoring of levies and charges imposed on utility companies, radio and television stations, telecommunication operators, satellite television providers, satellite service providers, original equipment manufacturers, cell site builders and infrastructure developers;
- (e) determine rates at which ducts and sub-ducts are shared;
- (f) determine rates at which the State shall lease spare ducts for the installation of fibre optic cables and infrastructure;

- (g) determine rates for right of way, building approval levies on communication sites and any infrastructure including building or planning permit fee, ratification fee and annual administration fee;
- (h) stipulate the period for the ratification of existing infrastructure prior to decommissioning; and
- (i) delegate the issuance of decommissioning notice.

Governing Board
of the Agency.

- 6.(1)** There is established for the Agency,
a Governing Board to be referred to
in this Law as the "Board."
(2) The Board consists of the
following members-

- (a) a Chairman, who shall be a person of proven integrity with requisite knowledge in any of the Telecommunication, Civil Engineering and Power Industry and related matters and shall be appointed by the Governor;

- (b) the General Manager of the Agency;
- (c) a representative each of the following-
 - (i) Ministry of Works and Transport;
 - (ii) Ministry of Information and Culture;
 - (iii) Ministry of Environment, Physical Planning and Urban Development;
 - (iv) Ministry of Education, Science and Technology;
- (v) Ministry of Justice; and
- (vi) Board of Internal Revenue; and
- (d) 4 professionals experienced and knowledgeable in physical planning, public safety, construction of infrastructure and related matters.

Appointment and tenure of members. **7.(1)** The members of the Board, other than the ex-officio members, shall be appointed by the Governor and shall hold office for a term of 3 years and shall be eligible for reappointment for one further term of 3 years only.

Remuneration of (2) The members of the Board members.
shall be paid such allowances as may
be determined from time to time by
the Governor.

Termination (3) The Governor may terminate
of appointment. the appointment of any member of
the Agency, if –

- (a) the Governor is satisfied that it is not in the interest of the Agency or the public that the member should continue in office; or
- (b) the member ceases to hold office as ex-officio or ceases to represent the interest of a group; or
- (c) the member is unable to discharge the functions of his office (whether arising from infirmity of body or mind); or

(d) the member has committed any misconduct or fraudulent act.

Meetings of the Board.

8.(1) The Board shall meet at such places and time as may be approved by the Board, although the General Manager may summon an emergency meeting when necessary.

(2) At every meeting of the Board, the Chairman shall preside and in his absence the members present shall appoint one of their members to preside.

Quorum.(3)

The quorum at any meeting of the Board shall be one-third of members including the Chairman.

Voting.(4)

All questions at any meeting of the Board shall be determined by a majority of votes of members present and voting, where there is equality of votes, the Chairman shall have a casting vote.

Co-option.(5)

Where the Board desires to obtain the advice or any special information from any person on any matter, the Board may co-opt the person as a member for the purpose of particular meetings and such person shall have

the rights and privileges of a member but shall not be entitled to vote on any issue or count towards a quorum.

Proceedings.

(6) The Board shall have power to regulate its proceedings.

Officers of
the Agency.

9.(1) There shall be appointed for the Agency a General Manager, who shall be a qualified Engineer not below the level of a Director. He shall be the accounting officer of the Agency and be responsible for the implementation of the decisions and the day to day administration of the Agency.

(2) There shall be a secretary who shall be responsible to the General Manager in the discharge of his function and shall be an officer not below Grade Level 14.

(3) The Agency may from time to time engage such other officers deemed necessary for due and proper execution of its functions under this Law.

Application of
Pensions Law.

10. Service in the Agency shall be a public service for the purpose of the Pensions Law and accordingly, officers and other staff of the Agency shall in respect of their service be entitled to such pensions.

Prohibition of
excavation and
installation in
public places.

11.(1) No person shall excavate, install any tower or mast or lay any cable in a right of way for any purpose without the prior written approval or permit from the Agency.

(2) The Agency shall carry out the re-instatement of such roads that were dug to its original state for the purpose of maintaining uniformity and quality.

(3) The re-instatement, referred to in subsection (2) of this section, shall be at the expense of the person or entity who dug the roads.

(4) Any invoice issued by the Agency to the person or entity to carry out the re-instatement shall be settled within 14 days in the case of installation of equipment.

(5) The failure to settle such invoice within the period stated in subsection (4) of this section shall attract a penalty of twice the amount stated in the invoice.

(6)The reinstatement referred to in subsection (2) of this section shall not be considered done until an assessment is made by authorized officers of the Agency.

Construction permit.
Schedule1.

12. (1) Any person wishing to develop or construct a tower, mast, or lay cables in a right of way shall apply for the necessary construction permit as set out in the Schedule 1 to this Law; which permit shall be granted or refused within 21 days upon submission of completed applications and required documents.

(2) No person, corporation, partnership or other body shall engage in any development, use, erect or construct any wireless communication tower or mast or lay cables without obtaining the necessary permit from the Agency.

Temporary Permit.
Schedule 5.

13.(1)The owner of an existing tower, mast or cables shall apply for a temporary permit for an existing tower, mast or cables within 3 months from the date of commencement of this Law.

(2) Before issuing a temporary permit, the Agency shall within a period of one year verify the validity of the existing tower, mast or cables and may direct that an alternative tower or mast be erected within 3,000 feet of the location where the equipment is located.

Application and issuance of permit. **14.**(1)(a) All applications for a permit shall be submitted by the owner or his agent to the registered office of the Agency.

(b) The permit when issued shall be displayed in a conspicuous place at the site of the structure.

(2) The Agency shall issue the requested permit within 21 days upon submission of completed applications and required documents, unless it concludes based on information presented to it that-

(a) the requested permit is not within its jurisdiction; or

(b) the application is incomplete; or

(c) if completed as proposed in the application, the tower, mast, or cable will not comply with the provisions of this Law or any planning laws or regulations.

Renewal of
permit
Schedule 1.

15. (1) Permits issued under the provisions of this Law shall be renewed annually by the Agency at such rates as it may determine.

(2) The fees payable for the issuance of permits under this Law are as prescribed in Schedule 1 to this Law.

Construction
permit fee.

16. There shall be paid for such construction permit referred to in section 12(1) of this Law, the sum of ₦25,000.00 in the case of laying of cables, and in the case of a tower or mast such sum as specified in Schedule 1 to this Law which is subject to review by the Agency from time to time.

Certification
and inspection.

17. (1) All existing towers, masts, or cables shall be certified structurally sound by an engineer of the Agency and in conformity with the building code requirements as set out by the Federal and State laws.

(2) Certification for new towers, masts or cables, shall be submitted with an application in accordance with this Law.

(3) The Agency shall have authority to enter the property in which a tower or mast is located or where cables are laid, and inspect same for the purpose of determining whether it complies with the building code and construction standards provided by the Federal and State laws.

(4) The inspection referred to in subsection (3) of this section shall be conducted between the hours of 8 a.m. and 5 p.m. after giving 72 hours' notice in writing to the tower, mast or cable owner.

Display
of signs.

18. Towers and Masts shall display signs such as "DANGER", "Aviation Lights" and other warning signs necessary, for human safety as may be prescribed by regulations made by the Agency.

Owners to
exercise
adequate
care.

19.(1) The owner of any tower, mast or cable shall exercise adequate care, install devices and provide methods for preventing failures and accidents which are likely to cause damages, injuries or nuisance to the public.

(2) The owner of any tower or mast or cable shall be required to install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in compliance with the requirements of the safety code of the State and Federal laws in such manner that will not interfere with the use of property of another.

- (3) All towers, masts, cables or telecommunication facilities and antenna structures shall be kept and maintained in good condition and repair so that same shall not endanger the life or property of any person.
- (4) All maintenance or erection of towers, masts cables, telecommunication facilities and antenna support structures shall be performed by duly qualified construction personnel.
- (5) All tower or mast owners shall maintain compliance with current RF emission standard under the Nigerian Communications Commission Act.
- (6) In the event that the use of a communication structure is discontinued by the owner, the owner shall notify the Agency in writing, of his intention to discontinue use and the responsibility to dismantle the structure, shall be that of the owner and such a structure, shall be dismantled within 30 days of such notice.
- (7) Any person, corporation, partnership or other body who contravenes subsection (6) of this section is liable on conviction to a fine of ₦25,000.00.

Offences and penalty. **20.(1)** Any person who commits an offence under this Law where the penalty is not already prescribed, is liable on conviction to a fine of ₦50,000.00 for each day of the offence.

(2) A fine shall become due, 21 days after the issuance of the notice to conform to the standard that has been infringed upon and if the irregularity continues for over a period of one week, the Agency may order the removal of the tower, mast or cables laid at the expense of the defaulter.

Limitation of suits against the Agency. **21.(1)** Notwithstanding the provisions of any other law, no suit shall be instituted against the Agency, any officer or employee of the Agency for any act done in pursuance or execution of this Law, or of any public duties or in respect of any alleged neglect or default in the execution of such law, duties or authority, in any court unless such suit or action is commenced within 3 months after the act, neglect, omission or default complained of.

- (2) No such suit or action shall lie or be instituted in any court of law against the members of the Agency, its officers or servants before the expiration of one month after written notice of intention to commence the suit shall have been served on the Agency by the intending plaintiff.
- (3) The notice referred to in subsection (2) of this section shall clearly and explicitly state the-
 - (a) cause of action;
 - (b) particulars of claim;
 - (c) name and place of abode of the intending plaintiff; and
 - (d) relief, which the plaintiff claims.

Judgement
debt.

22. Any sum of money which may, by the judgement of a court be awarded against the Agency shall subject to any directions given by the court, be paid from the general fund of the Agency.

Power to
make
Regulations.

- 23.** The Chairman or the General Manager may make regulations for-
- (a) the fees to be paid under this Law;
 - (b) the review of the fees to be paid;
 - (c) the type of permits to be issued;
 - (d) the inspection and certification of infrastructure under this Law;
 - (e) safety requirements and warning signs to be installed under this Law;
 - (f) the review, refusal or cancellation of permits; and
 - (g) any other matter which appears to be necessary for the purpose of giving effect to the provisions of this Law.

This printed impression has been carefully compared by me with the Law which has been passed by the Oyo State House of Assembly and found by me to be a true and correct printed copy of the Law.

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Paul Ishola Bankole mniRt. **Hon. Adesina Michael Adeyemo**
Clerk of the State **Speaker of the State**
House of Assembly **House of Assembly**

SCHEDULE 1

APPLICANT INFORMATION

The applicant must supply with his application the following information -

- (a) name of the applicant of the proposed communication structure together with his address and telephone number;
- (b) professional occupation of the applicant; and
- (c) purpose of the infrastructure.

FEES

Permit fee for the Construction of Communication Structure

1. Application Form - #50,000.00
2. For Every 3 feet (approximately 1 meter) of elevation of a Transmission tower - #10,000.00
3. For every 5 feet (approximately 1.5 meters) of elevation of a tower - #8,000.00.
4. For every 1.5 meters diameter for a parabolic telecommunication Antenna - #100,000.00.

5. For the construction of any transmission tower or structure within any business district and high density zones – An additional #50,000.00.
6. Construction Permit – 10% of total application fee. (Expires after three months).

Permit Fee for the Location of Equipment

1. for the application- #50,000.00
2. For every 5 feet (approximately. 1.5 meters) of elevation of the existing tower - #2,000.00 payable annually.
3. Annual certificate of conformity and supervision (Existing Mast) - #20,000.00 per mast.
4. Annual sanitation charges (existing Mast) - #120,000.00 per mast.

Renewal of Permit

1. Renewal of application -#25,000
2. For every 5 feet (approximately 1.5 meters) of elevation or part therein - #10,000.00 payable annually.

3. For any parabolic telecommunication antenna-
#100,000.00 payable annually.

Annual Temporary Permit Fee for Existing Communication Structure

1. Application - #50,000.00
2. For every 3 feet of elevation or part thereon of a transmission tower- #12,000.00
3. For every 1.5 elevation diameter or part thereon for a parabolic telecommunication antenna- #100,000.00

Annual Settlement Fee for non-conforming antenna

An annual settlement fee which is to be agreed upon shall be payable on communication structure, which prior to the date of this Law does not conform to the present standards. which fee shall not be less than ₦50,000.00 and not more than ₦250,000.00.

Antennas

1. Local TV - ₦1,200.00 per annum.
2. Satellite TV - ₦6,000.00 per annum.
3. VSAT - ₦300,000.00 per annum.

SCHEDULE 2

Requirements relevant to the Location

The applicant must provide the following at the time of application-

1. Legal description, plot number and address of the plot of land upon which the proposed infrastructure is to be situated.
2. If the applicant is not the owner of the parcel of land upon which the proposed infrastructure is to be situated, then a written consent of the owner shall be attached to the application together with the name of the owner of the parcel of land upon which the proposed infrastructure is to be situated, together with proof of ownership.
3. Communication structures or any other infrastructure to be located in any zone with approval.
4. Approval for co-location where required.
5. Approval by the Agency of the use of public properties upon determination that the intended use of the site by the public will not be unreasonably hindered.
6. An application to locate a new tower shall be accompanied by technical information identifying and documenting the need for such a location.

SCHEDULE 3

Neighbouring communication structure

The applicant shall provide the names, addresses and telephone numbers of all owners of other towers or antenna support structures, capable of supporting the applicant's telecommunication facilities within 500 feet of the proposed tower.

SCHEDULE 4

Application for the operation of the new communication structure

The applicant must submit an application for the operation of the new communication structure once the construction is completed. He must present the following with his application-

1. The required date to operate the construction.
2. The actual photograph of the completed site.
3. The number of persons expected to man the site.
4. The type of equipment already installed at the site.
5. A certificate of compliance to be exhibited in a conspicuous place.

SCHEDULE 5

Regulation applicable to existing communication structure

Temporary permit pending regulation

- 1.The owner of an existing communication or transmission infrastructure or tower shall apply for a temporary permit for the existing structure or tower within one month of the enactment of this Law and a temporary permit will be issued for the communication structure.
- 2.The owner will be required within three months to provide the technical specifications set out in this Law.

SCHEDULE 6

Requirement for Validation Relevant information regarding the site

The owner of an existing structure shall provide the following information-

1. Legal description, plot number and address of the plot of land upon which the proposed communication structure is to be situated.
2. The date of the construction of the communication structure.

3. If the owner of the structure is not the owner of the parcel of land upon which the proposed structure is to be situated, the written consent of the owner shall be attached to the application together with the name of the owner of the parcel of land upon which the proposed communication structure is to be situated, together with proof of ownership.

SCHEDULE 7

Relevant information regarding the location

1. The owner of an existing structure must provide information regarding the site or where he needs to specify and provide the names, addresses and telephone numbers of all owners of other towers or antenna support structures, capable of supporting the applicant's telecommunication facilities within 500 feet of the proposed communication structure site.
2. The owner of an existing structure need to provide Global Position Information (GPS) measurement specifying the coordinates of the proposed location and the altitude location.

