



## **BORNO STATE URBAN PLANNING AND DEVELOPMENT BOARD**

### **BORNO STATE RIGHT OF WAY REGULATION 2023**

#### **PART I— Preamble**

- 1 In exercise of the powers conferred on me by section 21(r) of the Borno State Urban Planning and Development Board 2020, and other powers enabling me in that behalf, I, **TPL Kaka Malum Umar**, the General Manager of Borno State Urban Planning and Development Board, hereby makes the following regulations and guidelines.
- 2 The regulations shall apply to licensee operator under section 135 of the Nigerian Communications Act, 2003. The operator:
  - a) may require approvals of the State Government, Local Government or other relevant authority for installation, placing, installing or maintenance of any network facilities (“Network Facilities”) on, through, 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) shall take all reasonable steps to restore the land to a condition that is similar to its condition before the activity began;
  - d) shall, 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.
- 3 In the application of the above-mentioned section 135 of Nigerian Communications Act, 2003 and in the exercise of its powers over the development permits and Rights of Way (RoW) within Borno State, Borno State Urban Planning and Development Board (BOSUPDB) receives applications or requests for approval for installation, placing, installing or maintenance of any telecommunications network facilities from any licensee operator and may impose a lump sum fee in the maximum limit of N145 per linear meter in the

exercise of the powers it holds in virtue of the Borno State Right of Way Regulation 2023 for the installation, placing, laying or maintenance of the Network Facilities.

- 4 No other Ministry, Department or Agency of Borno State is entitled to request or charge any fee with regard to the installation, placing, laying or maintenance of Network Facilities.

## **Part 2 - Application and Grant of Right of Way**

- 5 Application shall be made to BOSUPDB by the licensee operator for granting RoW for installation, placing, laying or maintenance of any Network Facilities on, through, under or across any public land within Borno State clearly stating the purpose and duration of the occupation. The request is 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 m<sup>2</sup> 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 In addition to the requirements specified in section 4 above, every application shall contain the following information:
  - a) Name, designation, physical address telephone number and electronic mail address of the contact person of the Applicant.
  - b) Where such infrastructure is subject to an Environmental Impact Analysis a copy of such approval.
- 7 Where there is any need for physical inspection and/or joint measurements, BOSUPDB shall inform the Applicant and schedule a date for the inspection.
- 8 Applications for RoW shall be granted by BOSUPDB 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 the 2023 Guidelines for Obtaining Right of Way in Borno State issued by BOSUPDB.

- 9 An approval relating to communications infrastructure may only 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 Section.
  - b) Where the grant of the RoW will be in contravention of the Dig-Once Policy specified of the State.
  - c) Where the Nigerian Communications Commission notifies the BOSUPDB 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 requirement 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 RoW 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.
- 10 If the application is not approved after one month from the date the application is received, BOSUPDB shall provide the licensee operator a written statement identifying the reasons for its failure to approve.
- 11 Where the satisfaction of the request of an 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, BOSUPDB may make the granting of the RoW conditional on the licensee operator carrying out 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 in any of its publications.
- 12 Without prejudice to the provisions of the above section 10, BOSUPDB may impose on the licensee operator a requirement to install 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.
- 13 No licensee operator shall commence any work before the RoW granted is duly communicated to the licensee operator.

### **Part 3 – Duties after Completion of Work**

- 14 An Applicant that has been granted a RoW shall provide BOSUPDB 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.
- 15 The As-Laid drawings shall show the following:
  - a) For ducts and cables laid:
    - Depth of the trenching
    - Number of ducts laid
    - Type and capacity ducts

- Types of cables
- Depth of Markers
- Position of the ducts and relative to the road centre line
- Position of manholes

- 16 On completion of the works, the Applicant shall obtain the appropriate completion certificate from competent authorities and forward a copy to BOSUPDB.
- 17 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.
- 18 Digging or Damages to road/right of way during installation shall be reinstated to its original state within 30 days.

#### **Part 4 – Sanctions**

- 19 The breach of this Borno State Right of Way Regulation 2023 shall be punishable by any of the following:
  - a) Suspension of RoW
  - b) Termination of RoW

#### **Part 5– Miscellaneous provisions**

- 20 This Regulation may be cited as Borno State Right of Way Regulations 2023 and shall come into effect on **20th day of December 2023**.



.....

**Town Planner (TPL) Kaka Malum Umar**  
General Manager  
Borno State Urban Planning and Development Board  
December 20, 2023