

Cross River State Outdoor Structures, Display Of Signage, Hoarding Advertisement



CROSS RIVER STATE OF NIGERIA

LAW NO. 8 (2011)

A Law to provide for the regulation of Outdoor Structures, the Display of Signage, Hoarding and Advertisement in Cross River State and for connected purposes.

Long title.

Commencement.

THE CROSS RIVER STATE HOUSE OF ASSEMBLY enacts as follows -

Enactment.

1. (1) There is hereby established for the State, an Agency known as the Cross River State Signage and Advertisement Agency (referred to in this Law as "the Agency").

Establishment of the Cross River State Signage and Advertisement Agency.

(2) The Agency shall -

- (a) be a body corporate with perpetual succession and a common seal;
- (b) have power to sue and be sued in its corporate name;
- (c) be capable of holding, purchasing, acquiring and disposing of property movable and immovable for the purpose of carrying out its functions under this Law.

2.(1) There is hereby established a Board for the Agency (referred to in this Law as "the Board") which shall consist of the following persons appointed by the Governor -

Establishment and Membership of the Board.

- (a) a Chairman, from amongst the Chairmen of Local Governments in the State as set out in the Schedule to the State Local Government Law No. 22, 2007;
- (b) three representatives, one each from the senatorial zones of the State, chosen from amongst the Local Government Chairmen in the three senatorial zones of the State;
- (c) the Director-General of the Agency;
- (d) the Secretary to the Board, who shall be the Legal Adviser to the Board with at least ten years post-call experience as Legal Practitioner;
- (e) three members from the general public, at least one of whom shall be a representative of Outdoor Advertising Association of Nigeria (OAAN).
- (f) The following ex-officio members -
 - (i) a representative of the Ministry of Environment;
 - (ii) a representative of the Ministry of Lands and Housing;
 - (iii) a representative of the Ministry or Department in charge of Transportation;
 - (iv) a representative of the Ministry of Local Government Affairs;
 - (v) a representative of the Ministry of Information and Orientation; and
 - (vi) a representative of the Ministry of Justice.

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(2) The Governor shall appoint the Chairman of the Board of the Agency on a rotational basis from amongst the Chairmen of Local Government Areas and the Chairman so appointed shall hold office for a period of one year.

(3) All members of the Board, with the exception of members appointed by virtue of S.2 (1) (c), (d) and (e) above shall be appointed to serve as part-time members.

(4) The procedure for the meetings of the Board are as contained in the Schedule to this Law.

(5) Members of the Board shall be remunerated as determined and approved by the Governor from time to time.

Vacancy in the Board.

3.(1) The office of a member of the Board shall become vacant

(a) if he resigns by notice in writing addressed to the Chairman;

(b) if he is removed;

(c) if his term of office expires;

(d) if he dies;

(e) if he becomes insane.

Tenure of Members of the Board.

4. A member of the Board shall hold office for a period of three years, and may be subject to renewal by the Governor for another final term of three years.

Removal of Members of the Board

5. The Chairman or a member of the Board may be removed from office by the Governor, without prejudice to the generality of Section 4, if the member:

(a) has been unjustifiably absent for two consecutive meetings without the required consent;

(b) has been convicted of any offence involving or necessarily implying fraud or dishonesty;

(c) is incapacitated by physical or mental illness from performing his function as a member;

(d) has interest in the Agency or as otherwise in the opinion of the Governor, is likely to affect the discharge by him of his function as a member; and

(e) for any other reason in the opinion of the Governor, or if such member is unfit to continue as a member of the Board.

Remuneration.

6. The non-ex-officio members of the Board shall be paid such allowances as may be determined by the Governor from time to time.

Resignation of Chairman of the Board.

7. The Chairman of the Board may resign his appointment by a letter addressed to the Governor.

Functions of the Agency.

8.(1) The Agency shall-

(a) control outdoor structures to be used for signage and advertisements;

(b) issue licences and permits for the construction and placement of outdoor structures in any part of the State;

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- (c) protect the environment from potential adverse impact from visual blights;
- (d) control the number, size and location of outdoor structures;
- (e) ensure that outdoor structures are soundly and carefully designed, erected, modified, maintained or removed when no longer in use to avoid potential damage to lives and property;
- (f) ensure that outdoor structures are compatible with surrounding land use and environment and further ensure the beautification of the immediate surrounding and vicinity of the advertisement;
- (g) control the pasting and display of posters on public structures and highways;
- (h) organize the procedure to regulate the ownership and operation of outdoor structures for the purpose of signage or advertisements under specific regulations as contained in this Law;
- (i) reject, revoke or modify a permit, if found to be in violation of any of the provisions of this Law or the conditions for its grant;
- (j) prepare and keep all records related to the issuance and denial of outdoor structures permit as well as appropriate general records;
- (k) monitor and inspect through its Monitoring Unit any outdoor structure and verify its compliance with this Law; and
- (l) establish a data-base of all the outdoor structures used for signage and advertisement, their owners and operators as well as their location and the reason for the operation.

9. (1) There shall be transfer of officers to the Agency and such shall be in accordance with procedure applicable in respect of the transfer of officers in Civil Service of the State and Local Government, and such officers shall serve on terms determined by the Agency. Staff of the Agency.

(2) The Agency shall have power to –

- (a) employ staff as it may consider necessary for the purpose of carrying out its functions under this Law;
- (b) determine the remuneration for its staff in accordance with what is obtained in the State Civil Service;
- (c) promote and exercise disciplinary control over its staff; and
- (d) recommend the appointment, termination or dismissal of persons within the Agency, including the promotion and confirmation of appointment as well as exercise any other disciplinary control.

10. The Director General of the Agency shall be responsible for the implementation of the decisions of the Board and for the day to day administration of the Agency. Director General of the Agency.

11. The Secretary to the Agency, shall be appointed by the Governor, shall keep the records, conduct the correspondence of the Board and perform such other duties as the Director General may direct. Secretary to the Agency.

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Appointment of Agents and Special Committees.

12.(1) The Agency may, with the approval of the Board –

- (a) appoint special committee amongst its members either to manage or advise on matter concerning investigation, initiation, administration or progress of any project or scheme which the Agency may undertake; and
- (b) appoint agents, consultants or contractors from time to time as the Agency may deem fit to exercise or perform any of the powers or duties conferred or imposed upon the Agency, or to provide professional services to the Agency.

Appointment of Consultants by the Board.

13. (1) The Board may, with the approval of the Governor, appoint a Consultant to the Agency for both the State and Local Governments in their joint exercise of powers, who shall be a technical partner to the Agency.

(2) The Agency, through a Memorandum of Understanding with all the Local Government Chairmen in the State, shall be empowered to delegate to a Consultant the collection of revenue in respect of outdoor structures, signage, hoarding and advertisement on their behalf.

(3) The Agency may delegate to the Consultant any other function as it deems fit.

Functions of Consultants.

14. The Consultant shall advise the Agency and make recommendations on all matters relating to the regulation of outdoor structures and their uses for the display of signage and advertisement and any other connected matters.

Financial Provisions.

15.(1) The funds of the Agency shall comprise of –

- (a) such money as may be appropriated and, or granted to the Agency by the State Government;
- (a) all sums, debentures, investments or other properties vested in the Agency;
- (b) such money raised by loan under the powers to borrow vested in the Board by this Law;
- (c) all money which may vest in the Agency under any enactment or law;
- (d) all fees, charges and tariffs for services rendered by the Agency; and
- (e) all other sums accruing to the Agency from any other source.

(2) The funds of the Agency shall be administered by the Agency in such manner as provided by Financial Regulations of the State and in particular the Agency shall –

- (a) on the advice of the Accountant-General of the State, establish and maintain separate accounts from which shall be defrayed all expenditure incurred by the Agency; and
- (b) apply all funds received in accordance with such conditions as may be attached to their release.

Fund Allocation Committee.

16. The Governor shall set up a Committee to be known as the Fund Allocation Committee (FAC), which shall determine the sharing formula of the revenue to be allocated to the State and each Local Government from the total revenue of the Agency.

Power to borrow money.

17. The Agency may, with the approval of the State Executive Council borrow, whether by way of mortgage or otherwise, such sums of money for and in connection with the exercise of its functions.

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18. The Agency shall operate bank accounts for its funds with a reputable bank or banks in the State and the signatories to the account shall be the Secretary of the Agency and the head of accounts subject to confirmation by the Director-General.

Bank Account.

19. The Agency shall be under the supervision of the Commissioner charged with responsibility for Information.

Supervision of the Agency

20.(1) The Agency shall have power to charge commercial tariffs, which may vary from area to area, and also make direct charges on users for structures and signages.

Collection of Tariffs and Charges.

(2) Notwithstanding the provisions of any Law, any person who fails or neglects to pay any tariffs, fees or charges shall be deemed to be a debtor and such debts may be recovered by a civil action in the appropriate court.

(3) A debtor shall be liable for the Agency's legal fees for enforcing or realizing the debt as well as any other costs incurred by the Agency in enforcing the debt against the debtor.

21. The Agency shall prepare, not later than 31st day of March in each year, an account of the expenditure and income for the preceding financial year.

22.(1) The Agency shall keep proper accounts in respect of its revenue and expenditure and shall, within three months after the end of each financial year, prepare an annual statement of account showing its financial position.

Annual Accounts and Audits.

(2) The annual statement of accounts shall be audited by an Auditor appointed by the State Auditor-General for Local Governments.

(3) As soon as the annual statement of accounts has been audited, the Auditor-General of Local Government shall forward copies of same together with copies of audited report to the State Government, the Local Governments and the House of Assembly.

23. The Agency shall submit quarterly report of its activities to the State, the Local Governments and the State House of Assembly.

Quarterly Reports.

24. The Agency shall, not later than the end of March of each year, submit the report of its activities for the previous year, to the State and the Local Governments.

Annual Report.

25. The Agency shall prescribe the amount to be paid as fees and charges within the different zones for mounting of outdoor structures, as well as the necessary charges for amendment of the existing structures subject to the approval of the Board; and review from time to time the fees and charges contained in the regulations made pursuant to this Law.

Fees.

26. (1) Every outdoor structure owned by a corporate entity shall be registered by its owner and such owner shall provide his registration number as a reference with the application for a permit.

Registration and Permits.

(2) The information required for the outdoor structure and the application thereon shall be incorporated within the regulations made pursuant to this Law.

(3) Every registered outdoor structure shall have a registration code provided by the Agency.

(4) all structure shall be erected with its registration code being duly sealed or mounted on it.

(5) The following structures shall require registration –

- (a) structures for free-standing portable signs – (including any sign on a standard, column or A-frame boards fixed to its own self-contained based which may be moved manually or temporarily attached to a permanent free-standing sign;
- (b) structures for billboards including any signage structure designed and intended to provide a leasing advertising copy area where the copy can be periodically replaced, typically by the use of preprinted copy pasted or otherwise mounted onto the copy area;
- (c) structures for billboards of the "spectacular" type, with over 20 square metres of area;
- (d) structures for roof sign including any sign which is entirely upon, or above the roofline or parapet of a building;
- (e) structures for wall sign including any sign painted or posted on a wall;
- (f) structures for furniture or statue type of sign, including structures, kiosks supporting outdoor advertising or signage; and
- (g) structures for temporary signs, including any permitted, designed intended to be displayed for a short period of time.

(6) Any such sign shall be recorded using the form and the attachment referred to in the regulations made pursuant to this Law.

(7) The permit required by the Agency shall be issued upon the payment of the prescribed fees, and shall be renewed annually.

(8) Each structure shall bear, at its base, the registration number of the owner as well as the permit number of the structures.

Structures requiring Special Permit.

27. The following structures shall require special permit –

- (a) structures that exceed the permissible number per the specifications provided in the regulations made pursuant to this Law;
- (b) structures that are illuminated by flashing lights, bare bulb or not conforming to the scope of illumination that is provided in the regulations made pursuant to this Law;
- (c) the use of mobile trailers or vehicles for the sole purpose of advertising; and
- (d) any other structure that may be determined by the Agency.

Qualification for operation.

28. No person shall establish or operate any billboard or commercial advertisement without being a member of a recognized advertising body except such a person is not carrying on the business of outdoor advertising.

Application for Permit or renewal of permit

29. (1) Every application for a permit or for the renewal of a permit shall be addressed to the Agency.

(2) An application for a permit or for the renewal of a permit shall be in the form specified by the Agency.

(3) The fees payable for the issuance or for the renewal of a permit shall be determined from time to time by the Agency and shall be paid at the time the application for the issuance or renewal of a licence is made.

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30. (1) A Certificate of Registration shall be issued to the applicant which will entitle him to apply for a permit for ownership.

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Certificate of
Registration.

(2) The terms and conditions on the permit shall constitute a binding agreement between the Agency and the recipient of the permit.

(3) A registration number shall be assigned to the holder of the Certificate or Registration, and this shall be used for any correspondence or reference with the Agency.

(4) Every Certificate of Registration shall be renewed annually at a lower fee than the initial payment.

(5) The applicant shall complete the prescribed application form and supply the Agency with all necessary information, additional documents and accompanying materials required.

31. It shall be unlawful for any person to erect, construct, enlarge or structurally modify an outdoor structure or operate any structure for signage or advertisement, where such a person is operating as a Corporate Advertisement Agent, without first being registered by the Agency.

Requirement to
register as Owner of a
Structure.

32. (1) Any structure for official, directional or warning signs erected or maintained by the Federal or State authorities, or by Local Government authority thereof, or by any railroad, public utility or similar authorized body concerned with the protection of public health or safety shall not be subject to any of the provisions set out in the regulations made pursuant to this Law.

Outdoor Structures not
requiring permit.

(2) Any erected, constructed, or affixed structure shall comply with this Law.

(3) Structures for signs or billboards mandatory under the laws of Federal Republic of Nigeria or the State Laws shall be as authorized by the Agency.

33. (1) Owners and operators of existing structures shall complete and submit the prescribed registration form with the Agency and apply for the permits required by this Law.

Existing outdoor
structures.

(2) Where an existing structure does not conform with the requirements and standards under this Law, the Agency shall notify the owner to remove such within 30 days of receipt of notice, failing which the Agency shall direct the removal of same at the expense of the owner.

(3) Where an existing structures is not registered within a period of three months following the enactment of this Law, the Agency shall direct the removal of same at the expense of the owner.

(4) All existing structures which do not conform with the requirements of this Law shall be demolished at the expense of the owner.

34. (1) Every residential unit, visible from the public highway, shall be identified by a street number, not to exceed 0.30 square metres in area.

Approval of outdoor
Structure for Signage.

(2) Every non-residential building or group of buildings shall be identified by a street number, visible from adjacent streets, not to exceed 0.3 square metres in area.

(3) The signs indicated in Subsection (1) and (2) of this Section shall not be counted as a part of the total sign area permitted for the building or groups of buildings and shall not require a sign permit.

35. (1) All structures used for signage and not expressly permitted by this Law shall be prohibited, except signs that are less than half a square metre in area which shall be exempted from the requirement of this Law.

Prohibited structures,
signage or contents.

(2) The following signs are prohibited –

- (a) signs with unethical or obscene contents;
- (b) illegal signs that are not in conformity with Federal, State, or Local Government Laws, Rules or Regulations;
- (c) the use of scrolling devices, moving or flashing characters for advertising on any vehicle;
- (d) the erection, attachment or painting of signs upon fences, rocks or natural feature; provided such is done in educational or religious institutions ;
- (e) outdoor structures of any classification installed, erected or attached in any form, shape or manner to roof fire escape or any door or window giving access to any fire escape.
- (f) abandoned signs;
- (g) fly posting;
- (h) outdoor structures obstructing pedestrian or vehicular visibility or otherwise interfering with the safe operation of vehicles or the safety of pedestrians; and
- (i) a trailer, or any other vehicle as a stationary billboard.

Offences and Penalties.

36.(1) Any person who violates any provision of this Law, or who violates or fails to comply with any Regulation or Order, or falsifies plans or statement or information filed hereunder; or who shall continue to display a sign or billboard, L.E.D. Screens, post any bills, posters, signs, panels, banners, stickers and other advertising materials and messages on trees, electricity poles, road directional signs, road dividers, flyovers, bridges, walls and rocks or any unauthorized surface whatsoever, is guilty of an offence and shall pay a fine as may be prescribed under the provisions of this Law.

(2) A fine of N10,000 (Ten Thousand Naira) for each week during which the violation continues shall be imposed up to a maximum of four weeks.

(3) Where the infringement persists beyond four weeks or the offender fails to pay the fine, the Agency shall order the removal of the structure at the cost of the owner.

(4) Where an offender fails to pay the fine within the stipulated period, he shall be guilty of an offence and liable on conviction to a term of imprisonment not exceeding two months or a fine not less than N50,000.00 (Fifty Thousand Naira).

Power to make regulations.

37. The Agency shall have power to make and modify regulations from time to time to enforce the provisions of this Law; Provided such are laid before the House of Assembly.

Permissible outdoor Structures.

38. The following are permissible outdoor structures that may be regulated by the Agency –

- (a) on-premise and off-premise signs and billboards;
- (b) lamp post or pole-mounted advertisement;
- (c) illuminated lighting devices used in conjunction with on-premise and off-premise signs and billboards;
- (d) decorative flashing lights, banners, posters, pennants, strings of lights, ribbons, streamers for advertising purposes;
- (e) portable signs, including but not limited to "A-Frame" signs and air activated attractions and devices;

- (f) direction signs, including those pertaining to public and private addresses;
- (g) all inflatable signs (i.e. advertising balloons);
- (h) furniture advertisements;
- (i) all political signs;
- (j) L.E.D. screens; and
- (k) all religious signs.

39. Without prejudice to the provisions of any other law in the State, the provisions of this Law shall prevail to the extent of the inconsistency. Conflicts.

40.(1) In this Law, unless the context otherwise requires – Interpretations

"Abandoned structure" means a sign which is not supported properly or which no longer correctly stands but advertises –

- (i) a bona fide business, lessor, owner, product or activity conducted; or
- (ii) a product available on the premises where the sign is displayed.

"Area of Copy" means the area of the largest single face, continuous perimeter composed of square, area rectangles or circles, which encloses the extreme limits of the advertising message, announcement or decoration of a wall sign;

"Area of Sign" means the largest single face of the sign within a perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be more than one section or module, all areas totaled. Any irregular-shaped sign areas shall be computed using the actual sign surface. In the case of wall signs the area of copy will be used;

"Board" means the Board of Directors of the Agency;

"Commissioner" means the State Commissioner or officer designated and charged with the responsibility of Environment or Information;

"Directional sign" means any sign which serves to designate the location or direction of any place or area. This includes, but is not limited to, such signs as those identifying restrooms, telephone, parking area, entrances and exits;

"Flashing Sign" means any sign which contains an intermittent or flashing light source or which includes the illusion of intermittent or flashing light by means of animation or an externally mounted intermittent light source, not including changeable message signs;

"Frontage" means the length of the property line of any one premises parallel to and along each public right-of-way it borders;

"Governor" means the Governor of Cross River State;

"Grade" means the elevation of the street closest to the sign to which reference is made, measured at the street centerline;

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"Height of Sign" means the vertical distance measured from the grade at the street right-of-way line where the sign is located to the highest point of such sign or structure;

"Illuminated Sign" means a sign, which is lighted by an artificial light source, either directed upon it or illuminated from an interior source;

"L.E.D." means Light Emitting Diode;

"Multi-faced Sign" means a sign with copy on two or more faces that are legible from more than one direction;

"Non-conforming Sign" means a sign that does not meet Code Regulations;

"On-premises Sign" means any sign identifying or advertising a business, person, activity, foods, products or services located on a premises where the sign is installed and maintained;

"Outdoor Structures" means any structure free standing or mounted in such a way that it offers a display of a sign or advertisement;

"Owner or Operator" means the actual person or corporation that owns and operates a structure on its behalf or on behalf of a third party;

"Projecting Sign" means a sign, normally double faced, which is attached to and projects from a structure or building fascia;

"Roofing Sign" means a sign erected upon, against or above a roof;

"Sign" means any emblem, painting, banner, pennant, placard, design identification, description, illustration, illuminated, or non-illuminated to advertise, identify, convey information or direct attention to a produce, service, place, activity, person, institution, business including any permanently installed or situated merchandise, and also include all sign structures;

"State" means Cross River State"

"Swinging Sign" means a sign installed on an arm or mast or spar that is not permanently fastened to an adjacent wall or upright pole;

"Wall Sign" means a sign attached to the wall or a building with the face parallel to the plane of the building wall and includes signs painted directly on a wall.

Short
Title/Commencement.

41. This Law may be cited as the Cross River State Signage and Advertisement Agency Law, 2011; and shall come into fore on the 27th of May 2011

SCHEDULE

Quorum.

1. The Quorum of the Board shall be one-quarter or eight members.

Meetings of the
Board.

2. (1) The Board shall meet at least once every two months for the dispatch of business at such place and time as the Chairman may determine.

(2) A special meeting of the Board may be summoned at the request of the Chairman or by a requisition notice signed by at least eight members.

(3) All meetings of the Board shall be summoned by the Secretary.

(4) The Chairman shall preside at any meeting of the Board but in his absence the Board shall elect one Local Government Chairman present to preside.

(5) The Chairman or the member presiding in his absence shall have a vote and in the case of an equality of votes, a second or casting vote.

(6) The Director General and the Secretary of the Agency shall be in attendance at all meetings of the Board and take part in its proceedings and the Board may also require any of its Officers or servants to attend such meeting and take part in the proceedings, but neither the Director General, the Secretary nor any of the officers or servants of the Agency attending its meeting shall have a right to vote on any matter.

3. The validity of any proceedings of the Board shall not be affected by any vacancy in the membership of the Board or any defect in the appointment of a member or by reason that a person who is not entitled to do so took part in the proceedings.

Validity of Proceedings of the Board.

4. (1) A member of the Board shall obtain a written consent of the Chairman for any reason requiring his absence from a scheduled meeting.

General considerations for absence from a Meeting.

(2) The Chairman of the Board shall obtain a written consent of the Governor for any reason requiring his absence from a scheduled meeting.

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

ELDER (NTUFAM) JOHN A. OKON
CLERK OF THE HOUSE

I assent

SENATOR LIYEL IMOKE
GOVERNOR
CROSS RIVER STATE

MADE AT Calabar this 24th day of May 2011