EXHIBIT A

110.03 Small Cell Facilities and Networks

(A) Definitions: As used in § 110.03, the following terms shall have the meanings set out below:

(1) **Administrative Review** means non-discretionary evaluation of an Application by the Zoning and Development Administrator. This process is not subject to a public hearing or conditional or special review process.

(2) **Antenna** means communications equipment that transmits or receives electromagnetic radio signals used in the provision of telecommunications services:

   (a) **Distributed antenna system (DAS)** means a network that distributes radio frequency signals and consisting of:

       1. Remote communications or Antenna nodes deployed throughout a desired coverage area, each including at least one Antenna for transmission and reception;
       2. A high capacity signal transport medium that is connected to a central communications hub site; and
       3. Radio transceivers located at the hub’s site to process or control the communications signals transmitted and received through the Antennas to provide Wireless or mobile Service within a geographic area or structure.

   (b) **Small Cell Facility** means a Telecommunications Facility that meets both of the following qualifications:

       1. Each Antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or in the case of an Antenna that has exposed elements, the Antenna and all of the Antenna’s exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet; and
       2. Primary equipment enclosures that are no larger than 17 cubic feet in volume, or facilities comprised of such higher limits as the FCC has excluded from review pursuant to 54 U.S.C. § 306108. Accessory Facilities may be located outside the primary equipment, and if so located, are not to be included in the calculation of equipment volume. Accessory Facilities includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services.

   (c) **Small Cell Network** means a collection of interrelated Small Cell Facilities designed to deliver wireless service.
(3) Applicant means any person or entity that is engaged in the business of providing wireless services or the wireless infrastructure required for wireless services.

(4) Competing local exchange carrier means a telecommunications provider that has received a certificate of public convenience and necessity from the Arkansas Public Service Commission under the authority of Ark. Code Ann. § 23-17-409 and is authorized to install equipment and operate within the public rights of way or on public or private property in the City of Fayetteville. This shall include distributed antenna systems, small cell facilities and small cell networks.

(5) Person means any individual, resident, citizens, business firm, corporation, partnership, governmental agency, or institution.

(6) Stealth technology means systems, components and materials used in the construction of wireless communications facilities to make it compatible with the surrounding property.

(7) Streets means all streets, roads, highways, alleys, rights-of-way, public utility easements, public property, public ways and air space over such streets, roads, alleys, public rights-of-way, public utility easements, public property and public ways located within the geographic limits of the city.

(8) Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing without change in the form or content of the information sent and received, whether wired or wireless.

(9) Telecommunications facilities or facilities means all conduits, manholes, poles, antennas, transceivers, wires, cable (including fiber optic cable), technology, and appurtenances owned or utilized by a telecommunications provider or third party infrastructure provider and located in, under or over the streets of the city or on public or private property and utilized in the provision of telecommunications services. This includes without limit, towers of all types, and base stations, including but not limited to buildings, church steeples, water towers, signs, poles, streetlights, traffic signals, or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related accessory facilities associated with the site. It is a structure and facility intended for transmitting and/or receiving, wireless services, Specialized Mobile Radio (SMR), personal communications services (PCS), commercial satellite services, microwave services, radio, television, and any commercial Wireless Service not licensed by the FCC.

(10) Telecommunications Provider or provider means any person, firm, corporation, partnership or other business entity, other than the city, that provides telecommunications services within or without the geographic
boundaries of the city by utilizing telecommunications facilities to provide telecommunications services. This shall include competing local exchange carriers or businesses that install small cell facilities on behalf of telecommunications providers.

(11) *Telecommunications services or services* means any service delivering telecommunications by a telecommunications provider that the provider is authorized to provide under federal, state and local law, except that these terms do not include cable service as defined by the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. §521 et seq., and the Telecommunications Act of 1996.

(B) Compliance with State and Federal Regulations. Applicant shall comply with all applicable state and federal regulations. Proof of compliance shall be provided upon request of the Zoning and Development Administrator. Applicant shall not be required to enter into any franchise agreement with the City.

(C) Consolidated Application. An applicant may file one consolidated application for a small cell network of up to ten (10) individual small cell facilities of a substantially similar design every seven calendar days. The City may require a separate application for any small cell facilities that are not of a substantially similar design. The form of the permit Application is located on the City’s website under Small Cell Facilities and Networks.

(D) An applicant shall submit with the application all documentation or other evidence required by the Zoning and Development Administrator to sufficiently establish the structural soundness of proposed facilities.

(E) Administrative Approval of Co-Located Facilities and Facilities Located on Existing Structures. The Zoning and Development Administrator, following an Administrative Review, may approve the following facility installations:

(1) Locating on Existing Structures. Installation of facilities on an existing structure other than a tower (such as a building, light pole, electric transmission tower, water tank, or other free-standing non-residential structure) provided that the facilities do not extend any higher than five feet above the existing structure. The Zoning and Development Administrator may grant an additional variance, not to exceed ten (10) feet in height above the existing structure, when such additional height is necessary for improved functionality or safety.

(a) Facilities Placed on Top of Buildings. When facilities extend above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. If concealment behind existing architectural features is not possible, screening panels manufactured to match existing architectural features may be used. Facilities mounted on a roof shall be stepped back from the front façade to the extent technically feasible in order to limit their impact.
on the building’s silhouette. Screening panels, if used, shall not exceed five (5) feet in height above the existing building’s roofline.

(b) Facilities Placed on Sides of Buildings. Facilities which are side-mounted on buildings shall be camouflaged (such as in a light fixture), shrouded, painted or constructed of materials to match the color of the building material directly behind them, and shall not extend above the roof line or extend more than two (2) feet from the façade of the building. The Zoning and Development Administrator may grant a variance of up to three (3) additional feet from the façade of a building when such additional clearance is necessary for improved functionality or safety.

(2) Locating on Existing Tower Not Previously Approved Through §163.13 of the U.D.C. Existing towers that do not have facilities may not add such capability without securing a conditional use permit, except as otherwise allowed by 47 U.S.C. § 1455.

(3) Locating on Existing Towers Previously Approved Through §163.13. Additional facilities may be placed upon any tower already approved through §163.14 of the U.D.C. so long as such additional facilities would not violate any requirements of the conditional use permit or other provisions of §163.13.

(4) Replacement of Existing Structures. If installation of facilities requires the removal and replacement of an existing structure, such as a pole, the new structure shall be considered an existing structure for the purposes of this section as long as the replacement structure is the same height as the existing structure, is constructed of substantially similar material or is a camouflaged/stealth structure, and the replacement structure is located within five (5) feet of the location of the original structure. The provisions of §110.02(E) shall govern the standards of and procedures for construction or installation of replacement facilities within the public rights of way. The facilities may extend up to five feet above the replacement structure. The Zoning and Development Administrator may grant an additional variance, not to exceed ten (10) feet in height above the replacement structure, when such additional height is necessary for improved functionality or safety.

(5) The applicant must submit a letter of intent indicating the intent and agreement to allow co-location of facilities or installation of facilities on an existing structure.

(6) If proposed facilities are not or cannot be adequately camouflaged, the City may require the installation of new stealth facilities.

(7) Any disturbance of City infrastructure (such as, but not limited to, streets, sidewalks, and utilities) shall be repaired and restored by the applicant at its expense and to a condition at least as good as that existing before the work causing such disturbance was commenced.

(8) Fees. An applicant shall pay an application fee in the amount of $200.00 for a single facility and $25.00 for each additional facility included in the application. Providers with approved permits shall pay an annual fee in the
amount of $250.00 for each facility co-located or installed on an existing structure in the public rights-of-way. If the Provider is installing its own fiber optic technology to a particular location and does not otherwise have a City franchise to do so, or does not pay franchise fees to the City pursuant to another agreement, the Provider shall also provide the City with four (4) dark pairs of fiber that the City may use for a public purpose.

(9) Variances. In order to receive a variance under this subsection, an applicant must show that strict enforcement would make it difficult to provide service due to circumstances unique to the facility under consideration (e.g., topographical challenges or line of sight issues) and demonstrate that the granting of the variance will be in keeping with the spirit and intent of this ordinance.

(F) Administrative Approval of New Facilities in Public Rights of Way. Providers proposing the construction or installation of new facilities in the public rights of way (specifically excluding the replacement of existing structures) shall comply with following requirements:

(1) Construction Maintenance. The provisions of § 110.02(E), with the exception of §§ 110.02(E)(3) and (E)(10), shall govern the process of approval for the construction or installation of any new facilities within the public rights of way.

(2) Fees. An applicant shall pay an application fee in the amount of $200.00 for a single facility and $25.00 for each additional facility included in the application. Providers with approved permits shall pay an annual fee in the amount of $50.00 for each new facility located in the public right of way. If the Provider is installing its own fiber optic technology to a particular location and does not otherwise have a City franchise to do so, or does not pay franchise fees to the City pursuant to another agreement, the Provider shall also provide the City with four (4) dark pairs of fiber that the City may use for a public purpose.

(3) Height Limitations. New facilities placed by the provider in public rights of way are permitted to be a maximum height of no more than ten (10) feet above the median height of other telecommunications facilities in the block for the proposed location, but in no event taller than thirty (30) feet above grade for residential and local streets, forty (40) feet for collector streets, or fifty (50) feet for arterial streets. The Zoning and Development Administrator may grant a variance not to exceed ten (10) additional feet when such additional height is necessary for improved functionality or safety. In order to receive a variance under this subsection, an applicant must also show that strict enforcement would make it difficult to provide services due to circumstances unique to the facility under consideration (e.g., topographical challenges or line of sight issues) and demonstrate that the granting of the variance will be in keeping with the spirit and intent of this ordinance.

(4) Camouflaging or Stealth Technology Required. New facilities shall be designed to be camouflaged to the greatest extent possible including, but not limited to, use of compatible building materials and colors, incorporation
within street lights, screening, landscaping, and placement within trees. All antenna arrays, cables, and other accessories used for providing the services shall not be obtrusive or noticeably visible. The Zoning and Development Administrator may approve the installation of a standard utility pole in areas where such installation will not degrade the streetscape but any facilities shall be camouflaged to the greatest extent possible. Camouflaging and stealth technology shall be required in all residential areas, improvement districts (including, but not limited to, the Dickson Street area and College Avenue improvement corridor), and any area in which utilities have been installed or relocated underground. Understanding that new technologies are anticipated to change the components of telecommunications facilities, the Administrator may determine if a telecommunications facility or component of a telecommunications facility is designed to be stealth.

(5) Fall Zone. The minimum distance from the base of any facility to any residential dwelling unit shall be the lower height or required setback, whichever is greater, unless all persons owning said residence or the land on which said residences are located consent in a signed writing to the construction of said facility. This setback is considered a "fall zone." In the event that an existing facility is proposed as a mount for the provider’s equipment, a fall zone shall not be required.

(6) Distance between new facilities. New non-camouflaged or non-stealth facilities shall be spaced a minimum of five hundred feet (500') from any other new non-camouflaged or non-stealth facility approved under subsection (F). New camouflaged facilities or new facilities utilizing stealth technology to fit within the streetscape (e.g., incorporated within a street light) shall not be subject to this distance requirement.

(7) Information Required to Process Requests for New Facilities.
   (a) Provide a map of the geographic area that your project will serve;
   (b) Provide a map that shows other existing facilities that are used by the telecommunications provider who is making the application;
   (c) Provide a map that shows other potential standalone locations for your facility that have been explored;
   (d) Provide a scaled site plan containing information showing the property boundaries, proposed facility, existing land use, surrounding land uses and zoning, access road(s) location and surface material, existing and proposed structures and topography.;
   (e) Describe why the proposed location is superior, from a community perspective, to other potential locations. Factors to consider in the community perspective should include: visual aspects, setbacks, and proximity of single-family residences;
   (f) Describe your efforts to install your facility on existing structures. The applicant should demonstrate a good faith effort to locate facilities on existing structures and/or co-locate with other carriers. The city may deny a request to construct or install a new structure by an applicant
that has not demonstrated a good faith effort with respect to this requirement.

(g) Describe whether you will or will not accommodate equipment of other telecommunications providers that could co-locate on your facility. Describe how such accommodation will impact both your pole and your ground mounted facilities. Provide documentation of your provider's willingness or unwillingness to accommodate other providers who may be able to co-locate on your facility.

(G) Application Time Frame. A final decision shall be issued for applications for facilities under subsections (E) and (F) within 60 calendar days subject to the following:

(1) The City shall supply written notice to the Applicant within thirty days of receipt of an Application clearly and specifically delineating any missing documents or information.

(2) Applicant shall submit any supplemental documentation and information to the City.

(3) City shall then have up to ten (10) calendar days to notify Applicant that the supplemental documentation or information satisfies the City’s request.

(4) Second or subsequent notices may not specify missing documents or information that were not identified in the original notice of incompleteness.

(5) This timeframe shall be tolled in cases in which the City determines that the application is incomplete. This timeframe may also be tolled by mutual agreement of the Applicant and City.

(H) New Structures on Private Property. Telecommunications providers proposing the construction or installation of new poles or towers on privately owned property in the City shall comply with the provisions of § 163.13 Wireless Communications Facilities and shall obtain a conditional use permit.

(I) New Facilities on Public Property. The City of Fayetteville will actively market its own property and existing facilities as suitable co-location sites. Applications for new facilities on public property shall be subject to the Administrative Review process. An annual lease amount should be charged according to the fair market value of the location. In cases in which the company no longer needs the facility, the city may require it to be removed. Applicants may be required to provide co-location space for city-owned facilities. For purposes of this subsection, public property shall not include any public right of way or structures in any public right of way. Small cell facilities installed in the public right of way or on structures in the public right of way shall pay only the fees set forth in subsection (E) and shall not be charged additional fees under this subsection.

(J) Permit Expiration. Permits issued for the construction or installation of any telecommunication facilities under this chapter shall expire after a period of six (6) months unless construction or installation of the permitted facility has been initiated.

(K) Appeals. An Applicant may appeal to the City Council a decision or interpretation made in the Administrative Review process by the Zoning and Development Administrator. Appeals shall follow the procedure set forth in Section 155.02 of the Unified Development Code. Pedestrian access and safety. All facilities shall be installed in such a manner not to impede, restrict, or adversely impact pedestrian or
vehicular safety or convenience, or violate any provision of the Americans with Disabilities Act.

(L) Emergency removal or relocation of facilities. The City retains the right to cut or move any facility located within its rights-of-way as the City, in its sole discretion, may determine to be necessary, appropriate, or useful in response to any public health or safety emergency. City shall notify the provider after cutting or removing any facility within its rights-of-way. If circumstances permit, the City shall notify the provider in advance of any cutting or removal and give the provider an opportunity to move its own facilities.