ARTICLE IX

SUPPLEMENTARY DISTRICT REGULATIONS AND SPECIAL PROVISIONS

SECTION 1 - HOME OCCUPATIONS

A. Intent - The standards set forth below shall be used by the Building Official or Director of Development in evaluating an application for a home occupation. In evaluating an application for home occupation, the Building Official must ensure the following:

1. That the public interest has been adequately protected

2. That no change in the character of the surrounding neighborhood will occur as a result of the home occupation

3. That no excessive noise, heat, increased traffic and parking and odor or hazard will result from the home occupation

4. That the proposed home occupation will not place a strain or burden on existing public facilities and services, particularly sewer and water service, street improvements and fire and police protection

B. Performance Standards - Home occupations are permitted as an incidental and subordinate use in specified residential with all of the following conditions:

1. Resident Occupants - A home occupation shall be conducted solely by the resident occupants.

2. Incidental to Residential Use - The applicant must clearly demonstrate to the Building Official that the home occupation is incidental and subordinate to its use for residential purposes. To ensure the incidental and subordinate character, the home occupation shall be limited to fifteen (15) percent of the total area of the first floor of the residence, but no more than three hundred (300) square feet per dwelling unit.

3. Appearance of Structure - In no way shall the appearance of the structure be altered or the occupations within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises or vibrations.

4. Restricted to Principal Building - No building or space outside the principal building shall be used for home occupation purposes.

5. Parking - The additional parking generated by the home occupation shall take place on the site and the use may increase vehicular traffic flow and parking by no more than one (1) additional vehicle at a time. The occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises.

6. Nuisances - Home occupations shall not generate traffic, parking noise, vibrations, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district.

7. Utility Cost - The public utility cost (water, sewer, electricity, solid waste collection, etc.) incurred in the operation of the home occupation shall not exceed what is normal to the use of the property for residential purposes.

C. Permitted Home Occupations - Home occupations include, but are not necessarily limited to the following provided that the applicant can meet all of the conditions and standards of this Ordinance.

1. Artist and Sculptors
2. Authors, Composers and Musicians
3. Computer Operator, Programmer, and other similar occupations
4. Dressmakers, seamstress and tailors
5. Home crafts, such as model making, rug weaving and lapidary work
6. Office facilities of a rabbi, minister or priest
7. Office facility of a salesperson, sales representative or manufacturer's representative provided that no retail or wholesale transactions are made on the premises

D. Prohibited Home Occupations - The following are business activities that are specifically prohibited as home occupations:

1. Antique shop
2. Barber Shop
3. Beauty Shop
4. Funeral Chapel or Funeral Home
5. Medical or Dental Clinic or Hospital
6. Renting of trailers
7. Restaurant
8. Stable or kennel

9. Tourist home or Bed and Breakfast

10. Veterinary clinic or hospital

11. Gun sales or repair

E. Business License and Certificate of Occupancy – The owner shall secure a license to operate the home occupation from the Office of City Recorder. Prior to the issuance of a Certificate of Occupancy, the Building Official will insure that the proper business license has been issued for the home occupation and that all requirements of the character and code or Ordinance of the City of Lakeland are complied with prior to the start of actual operations. The business license and certificate of occupancy shall be renewed annually to insure compliance with applicable municipal codes as well as laws of the State of Tennessee.

SECTION 2 - REGULATIONS REGARDING BOARDERS, TOURISTS AND RENTING OF ROOMS.

A. Intent – The standards set forth below shall be used by the Board of Appeals in evaluating an application to allow for boarders, tourists or the renting of rooms. The taking of boarders, tourists and the renting of rooms is a use permitted on appeal specific to each district by the Board of Appeals and shall be considered as an incidental and subordinate use in the district in which it is allowed.

B. Specific Standards –Prior to granting a permit for the taking of boarders, tourists or the leasing of rooms the Board of Appeals shall ensure that the following conditions have been met.

1. Off-Street Parking - A minimum of one (1) off-street parking space for each room or unit occupied by the boarder, roomer or tourist shall be provided in addition to any residential parking on the premises.

2. Appearance of Dwelling - The outside appearance of the dwelling unit shall maintain conformity with the general character of the neighborhood.

3. Number of Rooms - The number of rooms or units used for occupancy by boarders, roomers or tourists shall not exceed three (3) units or rooms per dwelling.

4. Area and Yard Requirements - All area and yard requirements of the district must be met.

5. Outdoor Display - The proposed use of the dwelling shall not be advertised by the display of goods or signs on the lot on which the proposed use is located.

6. Residency - Proprietors of the proposed uses enumerated in this section shall be residents of the dwelling unit in which the use is located.

C. Criteria for Review - Prior to the approval of any use on appeal, the Board of Appeals shall ensure the requested use adheres to the following criteria:

1. Location - The use requested on appeal is to be located on a route designated as either an Arterial or Collector Street on the official Major Road Plan for the City of Lakeland.

2. Bulk Requirements - All area, yard and density and parking requirements shall be met.

3. Site Plan - A site plan of the use shall be submitted to the Board of Appeals.

4. Approval and Permit - If approved, all modifications requested by the Board of Appeals shall be made prior to the issuance of any building permit. The site plan shall be maintained in the permanent files of the City of Lakeland.

SECTION 3 – ACCESSORY STRUCTURES

A. **Intent** – No accessory structures shall be utilized for human occupancy. No accessory structure shall be placed beyond the required front yard or the front line of the principle building and shall not cover more than thirty (30) percent of the rear yard.

B. **Specific Standards** – Accessory structures shall be constructed in accordance with the following regulations:

1. Number Allowed – A maximum of two (2) accessory structures may be constructed.

2. Residential Accessory Structure – All accessory structures placed on parcels zoned in a residential classification shall be placed a minimum of ten (10) feet from the rear property line. All accessory structures shall be placed the minimum prescribed side yard setback requirement of the residential zoning district in which the parcel is located; provided, however, that under no circumstance shall an accessory structure be located closer than five (5) feet from a side property line. Accessory structures placed five (5) feet from the side property line shall not exceed a height of ten (10) feet; provided, however, that for every one (1) foot of additional setback from five (5) feet off the side property line the accessory structure is placed, the height may be increased one (1) foot or portion thereof not to exceed a maximum height of fifteen (15) feet. The maximum height of an accessory structure in a residential district shall be fifteen (15) feet. The materials, color and texture of the accessory structure shall match the principal structure or dwelling.(Ord. 03-48, 10/2/03)

3. Non-Residential Accessory Structure – All accessory structures placed on parcels zoned in a non-residential classification shall be placed at the

minimum setback requirement for all structures within the applicable zoning classification. The accessory structure shall not exceed a maximum height of fifteen (15) feet; provided, however, the height of an accessory structure may be increased one (1) foot for each additional one (1) foot increase in setback from the minimum setback requirement not to exceed a maximum height of twenty-five (25) feet.

4. Accessory Structures Placed on Double-front or Reverse-front Parcels – Accessory structures placed on double-front or reverse-frontage parcels shall be placed a minimum of ten (10) feet from all property lines and shall not exceed a height of ten (10) feet.

5. Roof Pitch – The roof pitch of an accessory structure shall not be greater than the roof pitch of the principle structure. In the case of principle structures with flat roofs, the accessory structure shall be designed to provide a sloped roof.

6. Structures for Livestock – When an accessory structure houses livestock, it shall be located on a parcel that is no less than two (2) acres in size and shall be located no closer to the property line than thirty (30) feet. Structures for livestock shall not exceed a maximum height of twenty-five (25) feet. (Ord. 03-28, 3/6/03, pgs. 4-5)

7. Accessory Structures Prohibited in Front Yards – No accessory structure shall be placed within the font yard of any parcel of land.(Ord. 03-48, 10/2/03)

8. Accessory Structure as Principal Structure – Accessory structures shall not be the principal structure located on a parcel. Accessory structures will be accessory to the principal use and structure located on a parcel. (Ord. 03-48, 10/2/03)

9. Outdoor vending machine – An outdoor vending machine is defined as any self-contained or connected appliance, machine, and/or storage container located outside a structure that dispenses or provides storage of a product or service. Outdoor vending includes, but is not limited to, movie vending, ice machines, soda machines, and propane displays.

   The following standards apply to outdoor vending machines:

   A. Outdoor vending machines shall be permitted as an accessory use in C-1 and C-2 Zoning Districts for the following:
      i. Single occupant buildings with more than 10,000 square feet of gross floor area.
      ii. Individual tenants in a multi-tenant building that have at least 100 feet of store front and 10,000 square feet of gross floor area.

   B. Outdoor vending machines shall be flush against the facade of the principal structure.

C. Outdoor vending machines shall be placed on an impervious surface such as concrete or asphalt.

D. The linear width of all outdoor vending machines for a single occupant building or tenant within a multi-tenant building shall not exceed 10% of the total façade width of the single occupant building or tenant space for multi-tenant buildings.

E. No vending machine shall be placed in a location so as to impede pedestrian access, block parking areas, or create an unsafe condition. Businesses shall maintain at least four (4) feet of clear pedestrian access at all times.

F. Outdoor vending machines shall not be placed in direct view of directly adjacent residential structures.

G. The property on which the vending machine is located shall remain in compliance with Americans with Disabilities Act (ADA) standards at all times

SECTION 4 – TEMPORARY STRUCTURES AND USES

A. Intent - Certain temporary structures or uses shall be permitted in accordance with the provisions in the paragraphs below. Any permit issued for a temporary structure or use shall be valid for not more than one (1) year and may be extended no more than three (3) consecutive times before reapplication and repayment of fees shall be required.

B. Office, Commercial and Industrial Districts. –

1. Construction Offices – Two (2) temporary structures for construction materials and/or equipment, if in connection with and incidental to the development, shall be permitted in any office, commercial or industrial district.

2. Real Estate Sales Offices – One (1) temporary structure for use as an office for the sale or rental of real property, if in connection with and incidental to the development, shall be permitted in any office, commercial or industrial district.

C. Residential Districts-

1. Construction Offices – One (1) temporary structure for construction materials and/or equipment, if in connection with and incidental to the development, shall be permitted in any residential district.

2. Real Estate Sales Offices – One (1) temporary structure for use as an office for the sale or rental of real property, if in connection with and incidental to the development, shall be permitted in any residential district but not in subdivisions or planned developments where model homes have been approved.

3. Model Homes –

a. Model homes shall be permitted in the E-R, R-R, R-1 and R-2 residential zoning districts and in planned developments where single-family residences have been approved.

b. Model homes shall comply with all applicable requirements of this Ordinance, the Subdivision Regulations and special conditions of approval associated with the subdivision where they will be located.

c. A model home may be built on any residential lot within the approved subdivision as long as there is a minimum separation of three (3) lots from any other model home on the same street.

d. A permit for a model home will not be approved unless the plat for the subdivision has been recorded and a building permit for the lot has been issued.

e. Application for the permit to allow the model home shall include a copy of the building permit for the structure with the approved plot plan. The applicant shall indicate how parking and traffic control for the model home will be handled. Information on the number of people that will staff the model home and the dates of special marketing events at the model home shall also be provided.

f. Pedestrian and vehicular traffic associated with the model home shall be controlled by the permit holder, at no expense to the City of Lakeland, by using traffic devices, no parking signs, security personnel or traffic management personnel as needed.

g. No loud music, public address systems or installation of signs or fences in violation of Lakeland Ordinances shall take place in or around a model home. Documented nuisance complaints from more than fifty (50) percent of the property owners within a radius of five hundred (500) feet of the model home shall be grounds for revocation of the permit for the model home.

h. Signage for model homes shall be in accordance with the City of Lakeland Sign Ordinance.

i. Model homes shall not be used for storage of construction

materials other than samples for display purposes.

j. Model homes shall only be used to market homes in the subdivision where they are located.

k. Hours of operation for model homes shall be from 9:00 a.m. to one (1) hour after sunset on Monday through Saturday and from 12:00 p.m. to one (1) hour after sunset on Sunday.

SECTION 5 – WIRELESS TRANSMISSION FACILITIES (Ord. 03-52, 11/13/03)

A. **Scope –** The regulations set forth in this section shall apply to wireless transmission facilities.

B. **Purpose –** The purpose of the regulations of this section is to minimize the potential negative impact to surrounding property through application of reasonable technical and development standards for the installation and placement of wireless transmission facilities. The goals of this ordinance are to:

1. protect residential areas and land uses from potential adverse impacts of towers and antennas;

2. encourage the location of towers in non-residential areas;

3. minimize the total number of towers throughout the community;

4. strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use transmission facilities;

5. encourage users of transmission facilities to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

6. encourage users of transmission facilities to configure them in a way that minimizes the adverse visual impact of towers and antennas through careful site design, landscape screening, and innovative camouflaging techniques;

7. enhance the ability of the providers of telecommunication services to provide such services to the community quickly, effectively and efficiently;

8. consider the public health and safety of wireless transmission facilities; and

9. avoid potential damage to adjacent properties from tower failure through engineering and careful site selection of tower structures.

10. give due consideration to the City of Lakeland Land Use Plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of wireless transmission facilities.

C. **Definitions –** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alternative Tower Structure means manmade trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Backhaul Network means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and or long distance providers, or the public switched telephone network.

FAA means the Federal Aviation Administration.

FCC means the Federal Communication Commission.

Height means, when referring to a tower or other structure, the distance measured from finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Mature system means an existing wireless transmission facility.

Street means the surface of and all rights-of-way and the space above and below any public street, road, highway, freeway, lane, public way or place, sidewalk, alley court, boulevard, parkway, drive or easement now or hereafter held by the City for the purpose of public travel and shall also mean other easements or rights-of-way as shall be now held or hereafter held by the City which shall, within their proper use and meaning, entitle a user to the use thereof for the purposes of installing plant, facilities and equipment as may be ordinarily necessary and pertinent to utilizing wireless transmission facilities for the purpose of production or transmission.

Tower means the base of any wireless transmission facility including, but not limited to, a self-supporting lattice tower, guyed tower, or monopole tower, together with an antennae or other appurtenances.

User means any wireless telecommunications carrier utilizing wireless transmission facilities for the purpose of production or transmission.

Transmission facilities means buildings, cabinets, structures and facilities, including generating and switching stations, repeaters, antennas, transmitters, receivers, towers and all other buildings and structures relating to low-power mobile voice transmission, data transmission, video transmission and radio transmission, or wireless transmission; accomplished by linking a wireless network of radio wave transmitting devices (including, but not limited to, wire, cable, fiber optics, laser, microwave, digital, radio, satellite, portable phones, pagers, mobile phones or similar facilities) to the conventional ground-wired communications system (including, but not limited to, telephone lines, video and/or microwave transmission) through a series of short range, contiguous cells that are part of an evolving cell grid.

D. Applicability

1. ***New Towers and Antennas.*** All new towers and antennas in the City of Lakeland shall be subject to these regulations, except as provided herein.

2. ***Amateur Radio Station Operator/Receive Only Antenna.*** These regulations shall not govern any tower, or the installation of any antenna, that is under forty (40) feet in height and is owned and operated by a radio station operator, or is less than forty (40) feet in height used exclusively for receive-only antennas.

3. ***Pre-existing Towers or Antennas.*** Pre-existing towers and antennas shall not be required to meet the requirements of this Ordinance; provided, however, the applicant shall meet any state or federal requirements established since erection where compliance is mandated regardless of the date of installation.

4. ***AM Array.*** For purposes of implementing this Section, an AM Array, consisting of one or more tower units and supporting ground system which functions as an AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

E. Process

1. The use of land for wireless transmission facilities shall be permitted in residential, agricultural, commercial and industrial districts; provided, however, that no building permit shall be issued or construction initiated without the review and approval of the Planning Commission and the Design Review Commission; and that the other requirements set forth in this division are met. All wireless transmission facilities shall be subject to the technical and developmental standards of this section, to the minimum standards in the zoning district in which the "wireless transmission facility" is located, and to such additional conditions that the Planning Commission and the Design Review Commission may require in order to preserve and protect the character of the district in which the proposed use is located.

2. The use of an electrical transmission tower or pole along major arterial or collector street (per the City's Major Road Plan), for wireless transmission facilities, shall be permitted in residential, agricultural, and commercial and industrial districts; provided, however, that no building permit shall be issued or construction initiated without the review and approval of the Planning Commission and Design Review Commission; and that the other requirements set forth in this section are met. All wireless transmission facilities on an electrical transmission tower or pole along a major arterial or collector street shall be subject to the technical and development standards of this section, to the minimum standards in the zoning district in which the wireless transmission facility is located, and to such additional conditions that the City may require in order to preserve and protect the character of the district in which the proposed use is located.

3. The use of land for the shared use of wireless transmission facilities where an approved wireless transmission facility exists on public or private property, and is not located within an existing power transmission line tower, shall be permitted in the residential, agricultural and commercial districts; provided, however, that no building permit shall be issued or construction initiated without the review and approval of the Planning Commission and Design Review Commission, and that the other requirements set forth in this section are met. All wireless transmission facilities on a major and/or collector street shall be subject to the technical and development standards of this section, to the minimum standards in the zoning district in which the wireless transmission facility is located, and to such additional conditions that the City may require in order to preserve and protect the character of the district in which the proposed use is located.

4. If, upon review of a wireless transmission facility submitted under subsections E.2. through E.3. of this section, and the City determines that additional review is necessary to completely evaluate the proposed facility, the City may defer the facility to the full process of review under Subsection E.1. of this section which includes review and approval by the Planning Commission and Design Review Commission.

F. Exceptions – The provisions of this Section shall not apply to:

1. Antennas or towers located on property owned, leased, or otherwise controlled by the City of Lakeland.

2. Antennas or towers located on property that are less than forty (40) feet in height unless otherwise regulated in this Ordinance.

G. Preliminary Site Plan

1. The applicant shall submit a preliminary site plan describing the concept for the development of the entire parcel containing the wireless transmission facility to the Planning Commission and the Design Review Commission.

2. The Preliminary Site Plan shall include the following:

a. Existing and proposed roads;

b. Existing tree cover and proposed tree protection measures as required by the Tree Ordinance;

c. Landscape buffer areas and planting screens;

d. Curb cuts, drives and parking areas;

e. Grading and drainage plan which shows the existing and proposed topography of the entire site;

f. Building lines and the location of existing and proposed structures;

g. The zoning of adjacent tracts;

h. The names of the owners of all adjoining lots or tracts;

i. A vicinity map showing the location of the proposed site in relation to surrounding land uses and landmarks of the City;

j. Proposed uses of the land and buildings; and

k. Conveyance of access rights to the City as required by the Planning Commission.

3. Contain a certification by a licensed civil engineer that the boundaries have been surveyed and are true and correct, and that

all encroachments, easements and rights-of-way are accurately shown on the plan;

4. Provide a form for certification of approval by the PlanningCommission and the Design Review Commission;

5. Provide a form for certification by the owner and trustee of the mortgage, if any, that they adopt the plan and dedicate the streets shown on the plan and agree to make any required public improvements to adjacent streets as shown on the plans; and

6. Provide the regulations used to control the uses permitted in the site and the uses specifically prohibited in the site.

H. Final Site Plan

1. After approval of the preliminary site plan by the Planning Commission and the Design Review Commission, but prior to the issuance of any building permit and/or commencement of construction, the applicant shall have approval of the Planning Commission and Design Review Commission and a final site plan that reflects the conditions of approval imposed by both the Planning Commission and Design Review Commission upon approval of the preliminary plan.

2. The Final Site Plan shall include the following:

a. Existing and proposed roads and drainage improvements;

b. Tree replacement plan and protection measures as required by the Tree Ordinance;

c. Landscape buffer areas and planting screening including the specific quantities of plant materials to be planted;

d. Existing and proposed curb cuts, drives and parking areas;

e. Grading and drainage plan showing the existing and proposed topography and stormwater management improvements required by the City Engineer;

f. The total square footage of parking areas, if provided;

g. Building lines and the location of all existing and proposed structures and related appurtenances;

h. The total square footage of all existing and proposed buildings and structures and related appurtenances;

i. The zoning and land use of adjacent tracts;

j. The names of the owners of all adjoining lots or tracts; and

k. A vicinity map showing the location of the proposed wireless transmission facility within the City including prominent landmarks.

l. Contain a certification by a licensed civil

engineer that the boundaries have been surveyed and are true and correct and that all encroachments, easements, and rights-of-way are shown accurately on the site plan.

m. Provide a form of certification of approval by the Planning Commission and the Design Review Commission.

3. Provide a form of certification by the owner and trustee of the mortgage, if any, that they adopt the plan and dedicate the streets as sown on the Final Site Plan and agree to make any required improvements to adjacent streets as shown on the plan.

4. The applicant may, if desired, submit only one final site plan for the purpose of securing approval of the development plan if the plan submitted complies with all the requirements of the final plan. The Planning Commission and the Design Review Commission may grant final approval to such a plan after only one review.

I. Time Limitation – A final plan approved by the Planning Commission and Design Review Commission shall be valid for a period not to exceed six (6) months. If substantial construction on the wireless transmission facility has not begun within six (6) months, the approval shall expire, and the applicant shall be required to resubmit plans to the Planning Commission and Design Review Commission for approval based upon the latest technical and development standards for such facilities contained in this section as well as other applicable provisions contained in the Zoning Ordinance and Lakeland Municipal Code.

J. Technical Standards –

1. ***Frontage and setbacks.*** Towers within all agricultural and residential districts shall be located on a single lot with a minimum of two hundred 200 feet of frontage on a public street (except when antenna is installed on existing electrical transmission towers or utility poles). Towers installed in zoning classifications other than agricultural and residential zoning districts shall conform to the minimum lot area and lot width requirements prescribed for the district in which the tower will be placed. The minimum distance from the base of the tower to any right-of-way and adjoining property line shall be equivalent to or greater than two hundred (200) feet or two hundred percent (200%) of the height of the tower, whichever is greater; provided, however, in the case of self-supporting lattice or guyed towers the minimum distance from the base of the tower to any right-of-way and adjoining property line shall be equivalent to or greater than two hundred fifty (250) feet or three hundred percent (300%) of the height of the tower, whichever is greater. Guys shall be placed no closer than seventy-

five (75) feet from a right-of-way or adjoining property line. No buildings or structures shall be located within the setback area of any required yard, thereby providing a clear fall zone for the tower to any right-of-way and adjoining property line. The setbacks for all associated appurtenances, including buildings, cabinets, structures and facilities, shall correspond with the minimum setback requirements established for the zoning district in which the use is proposed.

2. ***Separation Distance Between Towers.*** Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the base of the proposed tower. The separation distances shall be as follows based upon the type of tower:

	Existing Self-Support Lattice	**Existing Guyed**	**Existing Monopole (less than 75' in height)**	**Existing Monopole (75' or more in height)**
Proposed Self-Support Lattice	5,000 feet	5,000 feet	1,500 feet	1,500 feet
Proposed Guyed	5,000 feet	5,000 feet	1,500 feet	1,500 feet
Proposed Monopole	1,500 feet	1,500 feet	1,000 feet	750 feet

3. ***National standards.*** The applicant's engineer shall provide documentation that the proposed wireless transmission facility meets or exceeds the standards of the American National Standards Institute (ANSI) for professionally acceptable radio frequency emissions standards.

4. ***Tower height.***

a. For a single user, up to ninety (90) feet in height; for two or more users up to one hundred twenty (120) feet in height.

b. To encourage shared use, the maximum tower height for wireless transmission facilities, incorporated within an existing power transmission line tower, shall be twenty (20) feet above the highest point of the existing power transmission line tower.

c. To encourage shared use, the maximum tower height for wireless transmission facilities, on top of a utility pole, located within the right-of-way of a collector or major arterial street as defined in the Major Road Plan of the City of Lakeland, shall be eight (8) feet above the highest point of the existing utility pole.

5. ***Structural requirements.*** Prior to the approval of any tower in excess of thirty-five (35) feet in height, the applicant shall provide the City including the Planning Commission and Design Review Commission with written certification from a registered structural engineer that the tower is able to minimally withstand winds of seventy (70) miles per hour with one-half-inch radial ice, as per the ANSI Standards, and/or one hundred (100) miles per hour wind gusts, whichever is greater. For towers placed on buildings, the applicant shall also provide the City and Planning Commission and Design Review Commission such written certification, plus evidence that the building itself is structurally capable of safely supporting the tower and its accompanying equipment. Wireless transmission facilities shall be designed in accordance with acceptable standards for Seismic Zone 3.

6. ***Cable Microcell Network.*** Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology may be permitted; provided, however, such installations do not require the use of towers.

7. ***Shared use.*** The shared use of existing towers or the placement of towers less than thirty-five (35) feet in height at locations adjacent to a mature wireless facility, or wireless transmission facility incorporated within existing power transmission line towers, shall be encouraged whenever possible.

a. The applicant's proposal for a new wireless transmission facility shall not be approved unless it can be documented by the applicant that the proposed equipment planned for the proposed tower cannot be accommodated on an existing or approved tower located within a minimum distance of ten hundredths (.10) miles due to one or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of existing and approved towers, considering existing and planned use of those towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.

(2) The planned equipment would cause radio frequency (FR) interference with other existing or planned equipment for these towers, and the interference cannot be prevented at a reasonable cost.

(3) Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and reasonably in parity with other similar equipment in place or approved.

(4) Geographic service requirements.

b. The applicant shall also address the extent to which shared use of the proposed tower will be allowed in the future. A letter of intent committing the tower owner and his successors to allow shared use of the tower, if an applicant agrees in writing to pay any reasonable charge for shared use, shall be filed with the City, prior to any building permit being issued.

c. The applicant's plans must demonstrate how shared facilities would potentially be situated on proposed sites. Towers and/or structures shall be required to be designed for multitenants on the initial installation, i.e., designed for two sets of fully sectored antenna arrays.

K. Development Standards

1. ***Buffer/landscaping provisions.*** The planting, maintenance and removal of trees associated with wireless transmission facilities shall comply with the Tree Ordinance of the City of Lakeland, and other related regulations pertaining to land disturbance and grading and sediment and erosion control. For ground structures and equipment buildings, located in or abutting property zoned residential (either immediately adjacent to such property or across a public roadway), special care shall be taken to minimize the effects on the adjacent residential area. The following shall be considered minimum standards:

a. A minimum of fifty (50)-foot buffer strip shall be required on the outer perimeter of the property, abutting property currently zoned for residential, office or commercial use or development. No internal roads or driveways, parking areas, structures or storage of materials shall be allowed within the buffer strip. This standard shall not supersede any existing or future agreements or regulations which may provide for a greater buffer strip than outlined in subsection K.1. of this Section.

b. The buffer strip shall consist of plantings

and physical features sufficient to screen the view beginning at a specified level, reduce glare and noise, and provide greater privacy for nearby residential uses. The buffer shall be initially installed for the permanent year-round protection of adjacent property by visually shielding internal activities from adjoining property from ground level view to a minimum height of six (6) feet. A landscaping plan detailing the type, substance, design, width, height, opacity, growing period to maturity, time schedule for installation, and responsibility for perpetual maintenance of the buffer strip shall be submitted to and approved by the Design Review Commission.

c. The landscaping provisions of this Section may be varied or reduced if the proposed plan provides for unique and innovative landscaping treatment or physical features that, in the opinion of the Design Review Commission, meet the intent and purpose of this Section. In instances where significant physical features exist (i.e., railroads, major roads and interstates, hillsides, preserved wooded areas, and utility easements, etc.) which in the opinion of the Design Review Commission provided adequate buffering between land uses, the existing buffers may be used to meet landscaping requirements of this Section.

d. Security fencing shall be required and shall comply with the regulations set forth for fencing in the Lakeland Municipal Code. Security fencing (wood only) shall be required around the area of the wireless transmission facility. Other fencing requested by the user, in compliance with the Fence Regulations contained in the Lakeland Municipal Code shall be constructed, in addition to, and behind the required wood fencing.

e. Wireless transmission facilities mounted on a building or structure in a commercial district shall be screened and/or designed to blend in visually with the roof and/or structure and surroundings where mounted. Such methods and materials shall only require approval by the Design Review Commission.

f. Prior to issuance of a building permit, security acceptable to the City (such as a maintenance bond, letter of credit or similar security) shall be required to ensure completion of landscaping and screening provisions as outlined in the plan approved by the Design Review Commission. The security shall be posted in an amount equal to one hundred ten percent (110%) of the total cost of the materials and installation of such improvements. This security shall be required for a period of one (1) year following the issuance of a Certificate of for the building,

or one (1) year following the completion of construction of the wireless transmission facility if no Certificate of Completion is required.

2. ***Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.*** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate at no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

a. No existing tower or structures are located within the geographic area which meets the applicant's engineering requirements;

b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements;

c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers and structures would cause interference with the applicant's proposed antenna.

e. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

f. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

3. ***Off-street parking.*** At least one (1) off-street parking space and/or an all-weather access drive capable of parking a vehicle shall be provided to service the wireless transmission facility. Parking facilities will be reviewed and approved by the Planning Commission and City Engineer.

4. ***Lighting.*** Outside lighting, if required for safety and security purposes, shall be arranged so as to minimize glare and reflection on adjacent residential properties and public streets. The Design Review Commission may require the submission of a lighting plan by a qualified professional engineer to ensure that the illumination of outside lighting as designed and installed does not exceed 0.5 footcandles, measured at the property line of abutting property zoned for residential use or development. Wireless transmission facilities shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or other governmental authority.

5. ***Signs.*** The visual transfer of information on the public facility through the use of external signs shall comply with the sign regulations set forth in the Lakeland Municipal Code. No signs including flags shall be allowed on an antenna or tower under any circumstance including flags. Signage, where required, shall be reviewed and approved where required by the Design Review Commission.

6. ***Vehicle access control.*** The location and design of driveways and/or accesses to reach the facility from a public street shall be approved by the Planning Commission and City Engineer.

7. ***Erosion control and stormwater management.*** The control of erosion during development and the design of drainage systems suitable to handle stormwater runoff after the site is developed shall be approved by the Planning Commission and the City Engineer.

8. ***Exterior treatment.*** All wireless transmission facilities including buildings, cabinets, structures and facilities, shall be designed and constructed of materials so as to be architecturally compatible with the architectural character of the general area, and as approved by the Design Review Commission.

9. ***Franchises.*** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City of Lakeland have been obtained and shall file a copy of all required franchises with the City.

10. ***Noise.*** The intensity level of sound from the wireless transmission facility including temporary generators used during extended power outages, measured at the property line of abutting property zoned residential, shall not at any time exceed fifty (50) decibels. In instances where the Planning Commission and/or Design Review Commission determines that a new wireless

transmission facility site may create objectionable noise or a nuisance to any adjacent property, additional buffers or other physical features shall be required to mitigate the noise.

L. Inspections

1. The user shall provide the City with a letter of certification from the design engineers (electrical, structural and civil) indicating that the wireless transmission facility was constructed according to the plans approved by the City. The letter shall be submitted within thirty (30) days of completion of the facility.

2. The user shall provide the City with a copy of the Shelby County's electrical inspector's report which ensures that the user met code requirements during construction of the facility.

3. The user shall annually provide the City with a certified copy of the engineer's annual inspection report, which includes, but is not limited to, the condition of the grounding system, the structural integrity of the facility, any damage incurred over the past year, the condition of fasteners, and a plan to correct any documented deficiencies.

M. Removal – Users vacating the property shall be responsible for removal of their respective buildings, cabinets, structures, facilities, and other appurtenances at their expense. It shall be the responsibility of the remaining facility user(s) and the landowner to maintain the site as per the site plan approved by the City of Lakeland. Legal use of the property for a wireless transmission facility shall be discontinued if all facility uses vacate the site for a minimum period of ninety (90) days.

N. Removal of Abandoned Wireless Transmission Facilities -- Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower and related appurtenances shall remove the same within ninety (90) days of receipt of notice from the City of Lakeland notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users abandoned the tower and related appurtenances.

O. Nonconforming Uses

1. ***Expansion of Nonconforming Use.*** Towers that are constructed and antennas that are installed in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.

2. ***Pre-Existing Towers.*** Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such pre-existing towers. New construction other than routine maintenance (including replacement with a new tower of like construction and height) on a pre-existing tower shall cause the property and all wireless transmission facilities and related appurtenances to be brought into compliance with current requirements of this Section and shall require review and approval by the Planning Commission and Design Review Commission.

3. ***Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas.*** Notwithstanding Article III of the Zoning Ordinance, a nonconforming tower or antenna that is damaged or destroyed may be rebuilt; provided, however, that the type, height, and location of the tower and related appurtenances shall be designed similarly to the previous tower and related appurtenances. Substantial deviation from the original facility will require submittal of revised plans and approval from the Planning Commission and Design Review Commission. Building permits will be secured within 180 days of the date damage or destruction was incurred. If no building permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in this Section.

P. Building Permits – It shall be unlawful to commence the excavation for the construction of any wireless transmission facility, including all associated appurtenances, until the City has issued a building permit and related permits for such work.