

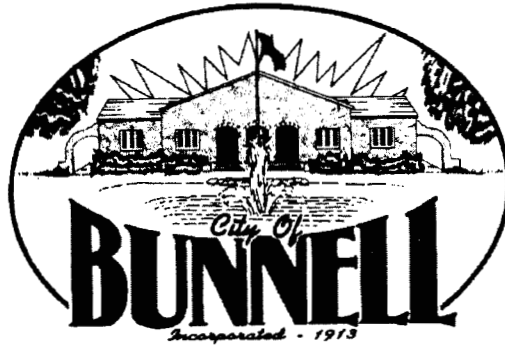
**ORIGINAL**

**COMMISSIONERS:**

DAISY M. HENRY

JAMES E. FLYNT, SR.

PAUL R. FELL



*Crossroads of Flagler County*

JOANN B.KING  
MAYOR

CATHERINE D. ROBINSON  
VICE-MAYOR

February 9, 2007

**Florida Public Service Commission**  
**Attention: Commission Clerk**  
**Tel: 850-413-6770**  
**2540 Shumard Oak Boulevard**  
**Tallahassee, Fl. 32399-0850**

060694-WU

**Subject: Water System Ordinance No. 2007-06**

**Dear Sir or Madam:**

Enclosed you will find two copies of The City of Bunnell Ordinance 2007-6. One of the enclosed is for your files. Please stamp the second copy with the date the Ordinance was filed and return it to us in the enclosed stamped, self-address envelope.

Thank you for you help and cooperation.

Regards,

**THE CITY OF BUNNELL**

**Ronya Johnson**  
**City Clerk**

lsm/rj

Enclosure

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FPSC-BUREAU OF RECORDS

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COMMISSION  
CLERK

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

## ORDINANCE 2007-06

**AN ORDINANCE OF THE CITY OF BUNNELL, FLORIDA; PROVIDING A SHORT TITLE; PROVIDING FINDINGS AND INTENT; CREATING AN EXCLUSIVE WATER, WASTEWATER & RECLAIMED WATER SERVICE AREA WITHOUT A CITY FRANCHISE OR FLORIDA PUBLIC SERVICE COMMISSION CERTIFICATE; PROVIDING THE CITY UTILITY FRANCHISING; PROVIDING A DUTY TO SERVE; PROVIDING FOR THE PROHIBITION OF OTHER UTILITIES OF SIMILAR CHARACTER WITHIN THE EXCLUSIVE SERVICE AREA; PROVIDING CRITERIA FOR EXTENSION OF SERVICES; PROVIDING CONDITIONS OF SERVICE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, as growth and its attendant population increase continue both within and adjacent to the City of Bunnell ("City"), the demand for additional water, wastewater and reclaimed water services will increase; and,

**WHEREAS**, pursuant to the Florida Constitution, Chapter 166, Florida Statutes, the Charter of the City of Bunnell and certain special acts of the Florida Legislature, the City Commission of the City of Bunnell ("Commission") is authorized to provide, regulate, purchase, construct, improve, extend, enlarge and reconstruct water, wastewater, and reclaimed water facilities and services both within and beyond the incorporated boundaries of the City; and,

**WHEREAS**, if the City does not maximize its water, wastewater, and reclaimed water service area, the failure to achieve economies of scale will contribute to higher user rates for the customers and citizens of the City's current water, wastewater, and reclaimed water systems; and,

**WHEREAS**, the failure to plan for and delineate future service areas will lead to the proliferation of other public and private utility systems and facilities in competition with and to the economic detriment of the City; and,

**WHEREAS**, the Commission hereby finds that the failure to adequately regulate the planning, design and construction of water, wastewater and reclaimed water systems and facilities will be a public harm detrimental to the citizens of the City; and,

**WHEREAS**, in implementing this Ordinance, it is the Commission's intent to conserve and protect water resources within and beyond the incorporated boundaries of the City, in the interest of the public health, safety and welfare, and avoid and eliminate, to the extent permitted by law, the circumstances giving rise to water, wastewater, and reclaimed water service duplications and resulting uneconomical and wasteful operations; and,

WHEREAS, in implementing this Ordinance, the Commission shall encourage the efficient utilization of water, wastewater, and reclaimed water facilities and systems, while avoiding, to the greatest extent possible, unreasonable restrictions upon free competition, fixing prices, or in reasonably limiting water, wastewater, or reclaimed water service capacity; and,

WHEREAS, the Commission has authority pursuant to the Bunnell City Charter, and Section 7(g), Chapter 67-1274, Laws of Florida, to be the exclusive provider of water, wastewater, and reclaimed water services beyond the current incorporated limits of the City.

**NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF BUNNELL, FLORIDA:**

**SECTION 1. SHORT TITLE.** This Ordinance may be known and cited as the “City of Bunnell Water, Wastewater, and Reclaimed Water Exclusive Service Area and Franchise Ordinance,” or the “Exclusive Service Area Ordinance.”

**SECTION 2. FINDINGS; INTENT.** The Commission hereby finds that it possesses the authority to provide on an exclusive basis water, wastewater, and reclaimed water service within and beyond the territorial limits of Bunnell pursuant to its Charter and certain special acts of Florida. In exercising its powers and authorities, the Commission hereby finds that it is electing not to utilize those powers and authorities set forth in Chapter 180, Florida Statutes, since said powers are an additional alternative source of the extraterritorial power to provide service. The Commission hereby finds that it possesses the authority to Franchise utility areas within the City limits and recognize those Florida Public Service Commission (FPSC) certificated utility service areas.

**SECTION 3. CREATION OF EXCLUSIVE WATER, WASTEWATER, AND RECLAIMED WATER SERVICE AREA.** Pursuant to the Bunnell City Charter and certain special acts of the Florida Legislature, the Commission hereby creates the City of Bunnell Exclusive Water, Wastewater, and Reclaimed Water Service Area (hereafter “Exclusive Service Area”) for the purpose of delivering to that area water, wastewater, and reclaimed water services and exercising within that area the powers provided by law. Unless later amended, the area to receive the services set forth above shall be as described in Attachment “A” and depicted in Attachment “B” attached to and incorporated in this Ordinance.

**SECTION 4. DUTY TO SERVE.** The City hereby declares that, subject to a customer’s or property owner’s compliance with City rate resolutions and ordinances, and applicable service extension policies, the City has a duty to serve water, wastewater, and reclaimed water service to all property owners and potential customers within the City’s Exclusive Service Area, provided the FPSC or the City has not certified or franchised that area.

**SECTION 5. OTHER UTILITIES OF SIMILAR CHARACTER PROHIBITED.** No person or entity other than the City and/or its designee shall provide water, wastewater, or reclaimed water service (other than bottled water) to any person, firm, corporation, government, or location within the City’s Exclusive Service Area without the City’s express written permission. No person or entity other than the City and/or its designee shall construct or use water, wastewater, and/or reclaimed water transmission lines, pipes, mains, pump stations or the

like on or within the established rights-of-way for the purpose of providing water, wastewater, and/or reclaimed water service to land located within the City's Exclusive Service Area without the City's express written permission. These prohibitions shall not be deemed to prohibit private water wells and/or septic tanks for individual structures or require mandatory connection where service is not available pursuant to City regulation or state law as amended from time to time. When cost effective and in the best interest of the City's citizens and existing rate payers, the City may contract with other water, wastewater, and/or reclaimed water utilities that meet City standards to operate within portions of the City's Exclusive Service Area.

**SECTION 6. CRITERIA FOR EXTENSION OF SERVICES.** Water, wastewater, and reclaimed water services will be extended within the Exclusive Service Area identified in Attachments "A" and "B" hereof. Such extensions are or will be in accordance with the City's most recent Comprehensive Plan and Capital Improvements Program as accepted or approved by the Commission. Extension of water, wastewater, and reclaimed water facilities and infrastructure outside the incorporated limits of the City and within the Exclusive Service Area as identified in Attachments "A" and "B" hereof shall be subject to the following additional criteria:

- (1) The City's central treatment facilities must have available capacity;
- (2) The developer pays all costs for extending the distribution, collection, or transmission facilities, unless specified in the City's Capital Improvements Program or Comprehensive Plan as amended;
- (3) If a Florida Public Service Commission ("FPSC")-regulated utility or City Franchised Utility has a prior legal right to provide water, wastewater, or reclaimed water service pursuant to a certificate of authority to a parcel or development within the Exclusive Service Area, the City shall not provide such service unless the said regulated utility consents thereto, or unless the FPSC-regulated City Franchised utility does not have a present ability to promptly and efficiently meet its legal duty to provide service to the parcel or development, as governed by applicable law.

**SECTION 7. GRANT OF CITY FRANCHISES AND RECOGNITION OF FLORIDA PUBLIC SERVICE COMMISSION CERTIFICATE(S).** The Commission hereby finds that it has and avails itself of the authority to grant and require utility franchise agreements in accordance with the Municipal Home Rule Powers Act of 1973, Chapter 166, Florida Statutes and expressly reserves the option to purchase as provided therein with said option to be exercisable upon the decision of the Commission given a one (1)-year notice to the franchisee within the City limits.

The Commission recognizes those FPSC certificated utility service areas both within the City limits and within the City's exclusive service area.

At the time of this Ordinance, the City has not found any entity holding any active or valid utility franchised/certificated service area granted by the Flagler County Board of County Commissioners or their regulatory designee within the City's Exclusive Service Area.

The City hereby approves and exempts the existing private or governmental utility systems in place as of the passage of this Ordinance.

**SECTION 8. CONDITIONS OF SERVICE.** The City may, as it deems necessary, require additional conditions in return for service. These conditions include, but are not limited to, requiring adherence to appropriate criteria, standards, and regulations relating to design and construction of project and utility infrastructure.

**SECTION 9. SEVERABILITY.** If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full effect.

**SECTION 10. EFFECTIVE DATE.** This Ordinance shall become effective upon adoption.

First Reading: on this 3<sup>rd</sup> day of January 2007.

Second Reading: adopted on this 6<sup>th</sup> day of February 2007.

**CITY COMMISSION, City Of Bunnell, Florida.**

By: Joann B. King Date 2-6-07  
Joann B. King, Mayor

Approved for form and content by:

Sidney M. Nowell Date 2-6-07  
Sidney M. Nowell, City Attorney

Attest:

Ronya D. Johnson Date 2-6-07  
Ronya D. Johnson, City Clerk

**Seal:**

EXHIBIT "A"

**LEGAL DESCRIPTION  
CITY OF BUNNELL, FLORIDA  
SERVICE AREA EXCLUSIVE**

SERVING THE AREA WITHIN FLAGLER COUNTY, FLORIDA AS DESCRIBED BELOW:

**TOWNSHIP 11 SOUTH, RANGE 29 EAST:** All of Section 36 lying within the city limits of Bunnell as is described in the municipal code; All of Section 35.

**TOWNSHIP 12 SOUTH, RANGE 29 EAST:** All of Sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36.

**TOWNSHIP 13 SOUTH, RANGE 29 EAST:** All of Sections 1, 2, 11, 12, 13, 14, 22, 23, 24, 25, 26, 27, 33, 34, 35, 36, 37, and 38.

**TOWNSHIP 14 SOUTH, RANGE 29 EAST:** All of Section 29 lying east of Washington Street; All of Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, and 28.

**TOWNSHIP 11 SOUTH, RANGE 30 EAST:** All of Sections 32 and 34 lying within the city limits of Bunnell as is described in the municipal code; All of 33.

**TOWNSHIP 12 SOUTH, RANGE 30 EAST:** All of Sections 2, 12, and 25 lying within the city limits of Bunnell as is described in the municipal code; All of Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 45, and 46.

**TOWNSHIP 13 SOUTH, RANGE 30 EAST:** All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36.

**TOWNSHIP 14 SOUTH, RANGE 30 EAST:** All of Section 23 lying within the city limits of Bunnell as is described in the municipal code; All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 30, and 31.

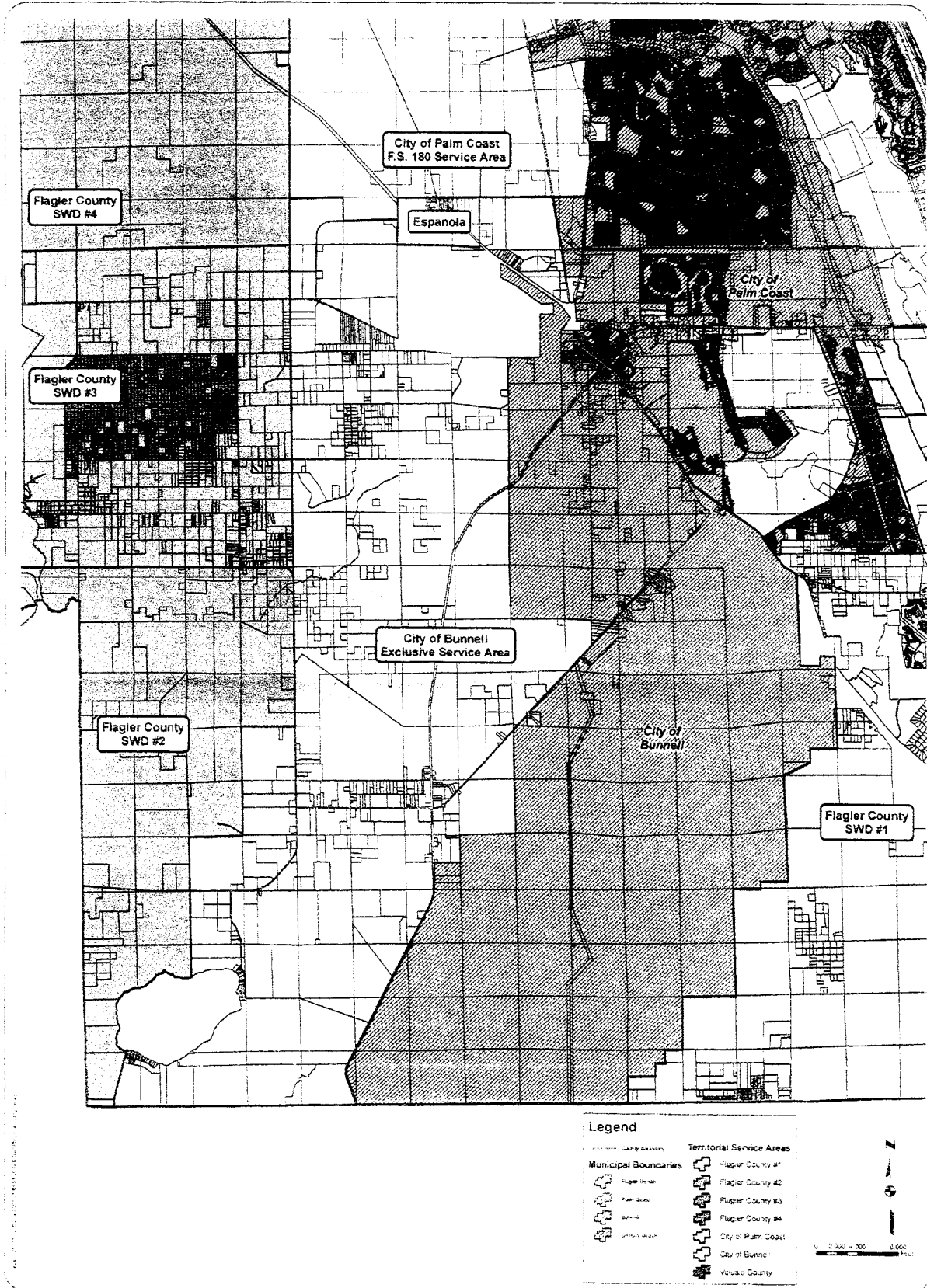
**TOWNSHIP 12 SOUTH, RANGE 31 EAST:** All of Section 31 lying within the city limits of Bunnell as is described in the municipal code.

**TOWNSHIP 13 SOUTH, RANGE 31 EAST:** All of Sections 5, 8 and 20 lying within the city limits of Bunnell as is described in the municipal code; All of Sections 6, 7, 17, 18, 19, 20, 30, and 31.

Less those areas with Florida Public Service Commission certificated areas and those areas with City Franchises and those areas with private single parcel service or government/agricultural center independent service. Certain parcels are exempted pursuant to Ordinance 07-\_\_\_\_\_.

EXHIBIT "B"

MAP DEPICTING THE BOUNDARIES OF THE CITY OF BUNNELL  
EXCLUSIVE SERVICE AREA ORDINANCE



06 083 000

CITY OF BUNNELL  
EXCLUSIVE SERVICE AREA  
FLAGLER COUNTY, FLORIDA  
DECEMBER 28, 2006

ATTACHMENT  
B

Hartman Consulting & Design  
301 S. Pine Street • Suite 102C • Orlando, Florida 32801  
Phone: 407-447-4093 • Fax: 407-447-6006

Ordinance 2006-06  
City of Bunnell, FL