

**ORDINANCE NO. F- 0335**

**AN ORDINANCE AMENDING THE TRANSFER OF VOLUME CAP  
IN CONNECTION WITH A PRIVATE ACTIVITY BOND ISSUE, AND  
RELATED MATTERS AS CONTAINED IN ORDINANCE NO. F-0328**

**WHEREAS**, the City of Wheaton, DuPage County, Illinois (the "City") is a municipality and a home rule unit of government under Section 6 of Article VII of the 1970 Constitution of the State of Illinois; and

**WHEREAS**, Section 146 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the City has volume cap equal to \$50 per resident of the City in each calendar year, which volume cap may be allocated to certain tax-exempt private activity bonds; and

**WHEREAS**, the Illinois Private Activity Bond Allocation Act, 30 *Illinois Compiled Statutes 1996*, 345/1 *et seq.*, as supplemented and amended (the "Act"), provides that a home rule unit of government may transfer its allocation of volume cap to any other home rule unit of government, the State of Illinois or any agency thereof or any non-home rule unit of government; and

**WHEREAS**, Ordinance No. F-0328 was passed on March 15, 1999 authorizing the transfer of the City of Wheaton's 1999 volume cap allocation to the Upper Illinois River Valley Development Authority, contingent upon payment of the fee specified therein and the Upper Illinois River Valley Development Authority communicating to the City that it desires the volume cap; and

**WHEREAS**, the Upper Illinois River Valley Development Authority has not communicated as to the volume cap and the fee required by Ordinance No. F-0328 has not been paid; and

**WHEREAS**, Ordinance No. F-0328 was not filed with the Office of the Governor in the State of Illinois; and

**WHEREAS**, the City of Wheaton's 1999 volume cap remains available for reallocation; and

**WHEREAS**, Nahal Financial Services, Inc., has requested the City's entire 1999 volume cap for use by the Village of Bedford Park (the "Issuer") to issue its revenue bonds (the "Bonds") to finance a portion of the cost of certain water facilities and other improvements necessary to supply lake water to Citizens Lake Water Company (the "Company"), which Bonds will require an allocation of volume cap; and

**WHEREAS**, it is now deemed necessary and desirable by the City to transfer its volume cap allocation for calendar year 1999 to the Issuer to be applied toward the issuance of Bonds.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Wheaton,  
DuPage County, Illinois, as follows:

Section 1. That Ordinance No. F-0328 adopted on March 15, 1999 is hereby repealed.

Section 2. That, pursuant to Section 146 of the Code and the Act, the volume cap of the City for calendar year 1999 in the amount of \$2,708,650 is hereby transferred to the Issuer, which shall issue the Bonds using such transfer of volume cap, and the adoption of this ordinance shall be deemed to be an allocation of such volume cap to the issuance of the Bonds; and that, upon allocation of the volume cap, the Company or the Issuer will pay the City a fee of one and one quarter percent (1.25%) of the amount of said volume cap so allocated to the Bonds.

Section 3. That the Mayor, the City Clerk and all other proper officers, officials, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and to execute all such documents and certificates as may be necessary to further the purposes and intent of this Ordinance.

Section 4. That the provisions of this Ordinance are hereby declared to be separable, and if any section, phrase or provision of this Ordinance shall for any reason be declared to be invalid, such declaration shall not affect the remainder of the sections, phrases and provisions of this Ordinance.

Section 5. That all ordinances, resolutions or order, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded; and that this Ordinance shall be in full force and effect upon its adoption and approval.

Presented, passed and approved this 26<sup>th</sup> day of April, 1999.

APPROVED:

 James C. Canfield  
Mayor

(Seal)

Roll Call Vote:

ATTEST:

Ayes: Councilman Gresk, Councilman Johnson,  
Councilwoman Johnson, Councilman Mork,  
Councilwoman Davenport, and Councilman Eckhoff.

Henry M. Connelley  
City Clerk

Nays: None.

Absent: Mayor Carr.

Published: April 27, 1999

Motion Carried Unanimously