

# **Charter Township of Orion**

**Ordinance No. 57**

**Deferred Compensation Agreement**

Adopted May 5, 1980

**AN ORDINANCE TO ESTABLISH A NON-QUALIFIED DEFERRED COMPENSATION PLAN UNDER SECTION 457 OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED, FOR OFFICERS, OFFICIALS AND EMPLOYEES OF THE TOWNSHIP OF ORION AND TO AUTHORIZE THE TOWNSHIP SUPERVISOR AND THE TOWNSHIP CLERK TO ENTER INTO AN AGREEMENT IN THE NAME OF THE TOWNSHIP WITH OFFICERS, OFFICIALS AND EMPLOYEES OF THE TOWNSHIP WHO ARE PARTICIPANTS IN THE PLAN; TO DEFINE THOSE PERSONS WHO SHALL BE ELIGIBLE TO PARTICIPATE IN SUCH PLAN; TO ESTABLISH THE TERMS OF SAID AGREEMENT INCLUDING LIMITATIONS ON AMOUNTS TO BE DEFERRED; TO ESTABLISH THE MANNER OF PAYMENT OF AMOUNTS DEFERRED UNDER SAID AGREEMENT; TO REPEAL ALL ORDINANCES OR PARTS OR PORTIONS OF ALL ORDINANCES INCONSISTENT HERewith AND TO SET AN EFFECTIVE DATE FOR SAID ORDINANCE. THE TOWNSHIP OF ORION, OAKLAND COUNTY, MICHIGAN, ORDAINS:**

### **Section I - Nonqualified Deferred Compensation Plan**

The Township of Orion hereby establishes a non-qualified deferred compensation plan under Section 457 of the Internal Revenue Code of 1954, as amended, whereby an officer, official or employee of the Township may be eligible to defer that individual's compensation or a portion thereof, said amounts deferred to be paid by the Township or its agent to said officer, official or employee or said individual's beneficiary according to the terms of the agreement with said individual at a later date; said agreement shall be entered into by the Township Supervisor and the Township Clerk in the name of the Township; said deferred compensation shall be for the purpose of providing for the payment of said compensation in a different manner and at different times, thereby more effectively providing for said officer, official or employee's retirement or death; said agreement shall be for the purpose of deferring federal and state income tax liability on said deferred compensation to the time of receipt by said officer, official or employee or said individual's beneficiary.

### **Section II - Individuals Covered**

All Township officers, officials and employees shall be eligible to participate in the non-qualified deferred compensation plan established hereunder and may elect to participate in the plan by entering into a written deferred compensation agreement with the appropriate officials of the Township, which said agreement shall be as set forth in Exhibit A attached hereto and incorporated herein.

### **Section III - Administration and Interpretation of the Plan**

The plan shall be administered by the Township Board of the Township of Orion. The Board shall represent the Township in all matters concerning the administration of the plan. The Board or its authorized agent or official, shall investigate, review and approve any insurance company seeking to sell insurance, annuity or mutual fund contracts under this plan. The Board shall have full power and authority to adopt rules and regulations for the administration of the plan, provided that they are not inconsistent with the provisions of this Ordinance and to interpret, alter, amend or revoke any rules or regulations so adopted.

### **Section IV - Tax Ramifications**

It is the intention of the Township Board that this non-qualified deferred compensation plan and the agreement provided thereunder for the deferral of compensation complies with Section 457 of the Internal Revenue Code of 1954, as amended, pertaining to State deferred compensation plans. The participant's compensation which is actually deferred hereunder is intended to be nontaxable until actually received by said officer, official or employee or such individual's beneficiary. The administration of this non-qualified deferred compensation plan and the operation and interpretation of the agreement provided thereunder shall be done in such a manner so as not to result in the compensation deferred thereunder becoming taxable before actual receipt thereof by said officer, official or employee or such individual's beneficiary. Any provision contained herein which causes said deferred compensation to be taxed prior to receipt thereof shall be deemed null and void. However, although it is the opinion of the Township of Orion that the non-qualified deferred compensation plan and the agreement provided thereunder accomplishes the deferral of federal and state income tax for compensation deferred thereunder, no guarantee is given to any officer, official or employee or said individual's beneficiary as to its tax status, and the Township hereby assumes no responsibility in the event of any adverse tax determination to any officer, official or employee or said individual's beneficiary.

Any provision of this non-qualified deferred compensation plan, the agreement or any Township rules or regulations pertaining thereto adopted thereunder, which are contrary to the Internal Revenue Code of 1954 or regulations adopted thereunder shall be deemed to be superseded by such Internal Revenue Code of 1954 or regulations adopted thereunder.

**Section V - Severability**

This Ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

**Section VI - Effective Date, Repeal of Prior Inconsistent Ordinances, Additions**

This Ordinance shall become effective immediately upon publication as provided by law. Any ordinance or parts of ordinances inconsistent herewith shall be deemed to be repealed by this Ordinance and shall be of no further force and effect. However, the validity of any nonqualified deferred compensation agreements made by Township officers, officials or employees pursuant to any previous plan shall not be affected by this Ordinance and plan, but such previously executed nonqualified deferred compensation agreements shall be subject to the terms of this Ordinance and Plan hereafter.

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