

VOTING GUIDE FOR LOCAL ELECTED OFFICIALS

VOTING AND CONFLICTS OF INTEREST: CAN I VOTE?

You must ask to be **excused** from voting if you can check **any** of these boxes (references to the North Carolina General Statutes are in bold):

- Voting will result in a criminal penalty. (See reverse side for guidance.) **G.S. 14-234**
- The matter before the board/council involves your official conduct.
G.S. 153A-44 (counties), G.S. 160A-75 (municipalities)
- The matter before the board/council involves your personal financial interest.
(Note that you can vote on your board compensation.)
G.S. 153A-44 (counties), G.S. 160A-75 (municipalities)
- The matter before the board/council is a zoning map or text amendment, and the vote is reasonably likely to have a direct, substantial, and readily identifiable financial impact on you.
G.S. 153-340(g) (counties), G.S. 160A-381(d) (municipalities)
- The board/council is applying adopted policies to individual situations (see box for examples),
AND
 - you have a fixed opinion on the matter, or
 - you have had secret communication with someone who may be affected by the decision, or
 - you have a family or business relationship with someone who may be affected by the decision, or
 - you have a financial interest in the outcome of the decision.
G.S. 153A-345(e1) (counties), G.S. 160A-388(e1) (municipalities)

The board is applying adopted policies to individual situations if the board is:

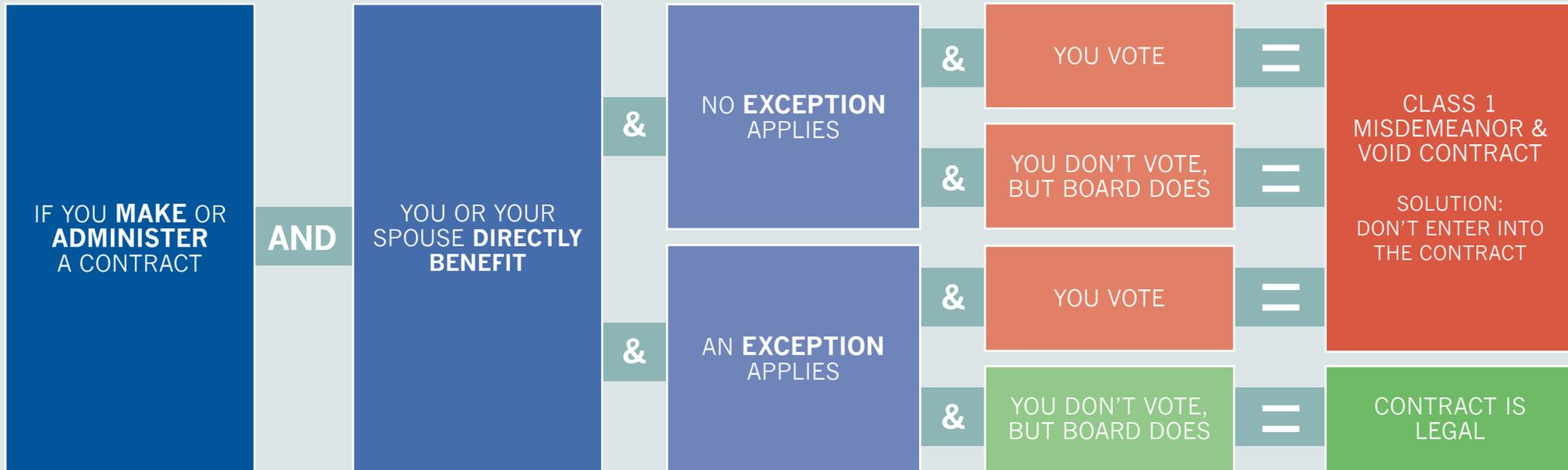
- hearing an appeal of an interpretation of a zoning ordinance,
- granting variances to the zoning ordinance, or
- granting a conditional use permit.

If **no** boxes can be checked, you **must** vote.

For more information about ethics and conflicts of interest, visit www.sog.unc.edu/programs/ethics.

VOTING AND CONFLICTS OF INTEREST: CRIMINAL PENALTIES

Use this flowchart to determine if voting on a matter will result in a criminal penalty. (See reverse side for a detailed explanation of when you can and cannot vote on matters before your board.)



TERMS IN BOLD TYPE ARE DEFINED BELOW.

Under **North Carolina General Statute 14-234**, public officers (including board members) and public employees may not **make** or **administer** a contract on behalf of a public agency if they will derive a direct benefit from the contract. In addition, contracts entered into in violation of this statute are void.

A board member is involved in **making a contract** if he or she participates in the preparation of the contract. A board member is also involved in making a contract if the board takes action on the contract, whether the board member participates in the board's action or not. In other words, each board member is involved in making any contract entered into by the member's unit of government.

A board member is involved in **administering a contract** if he or she oversees the performance of the contract or has authority to make decisions regarding the contract or to interpret the contract. A board member receives a **direct benefit** if he or she (or his/her spouse)

- owns more than 10% of the company that is a party to the contract,
- derives any income or commission directly from the contract, or
- acquires property under the contract.

G.S. 14-234 includes five **exceptions** to the prohibition against making or administering contracts from which a public officer or employee will derive a direct benefit. Contracts that would otherwise violate the statute are permitted under these exceptions *as long as the board member with the conflict does not participate in any way or vote on the contract.*

The five exceptions:

1. Contracts between a public agency and a bank, banking institution, savings and loan association, or a public utility.
2. Interests in property conveyed by an officer or employee of a public agency under a judgment entered by a superior court judge in a condemnation proceeding initiated by the public agency (a "friendly" condemnation).
3. Employment relationship between a public agency and the spouse of a public officer of the agency.
4. Payments by a public agency for certain public assistance programs.
5. Contracts entered into by small jurisdictions (cities having a population of no more than 15,000, and counties that have no cities with a population of more than 15,000 within them). *Additional restrictions apply to this exception, so consult with your attorney before relying on this exception.*

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