

# VOTING GUIDE FOR MUNICIPAL AND COUNTY GOVERNING BOARD MEMBERS

## CONFLICTS OF INTEREST: WHEN CAN I VOTE?

IF **NO** BOXES CAN BE CHECKED IN **EITHER** COLUMN, YOU HAVE A **STATUTORY DUTY TO VOTE**.

### YOU ARE **PROHIBITED** FROM VOTING WHEN:

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

- ☐ You or your spouse have a statutorily prohibited interest in a contract with your unit and voting will result in a criminal *penalty* (see reverse side for guidance). **G.S. 14-234**
- ☐ 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. 153A-340(g) (counties), G.S. 160A-381(d) (municipalities)**
- ☐ The board/council is acting in a quasi-judicial capacity (applying adopted policies to individual situations such as hearing an appeal of an interpretation of a zoning ordinance, granting variances to the zoning ordinance, or granting a conditional use permit),  
AND
  - you have a fixed opinion on the matter, or
  - you have had an undisclosed communication outside the hearing with someone who may be affected by the decision, or
  - you have a close relationship with a family member, business, or organization that may be affected by the decision, or
  - you have a financial interest in the outcome of the decision.**G.S. 153A-345.1 (counties), G.S. 160A-388(e2) (municipalities)**

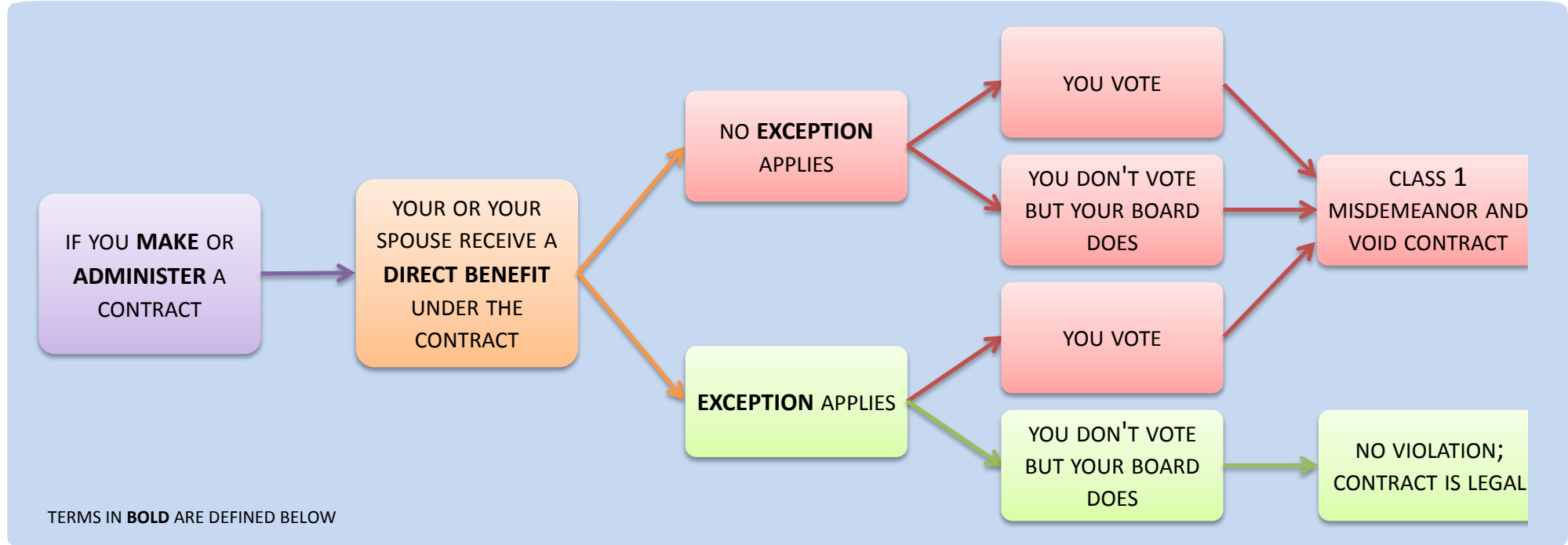
### YOU MAY BE **EXCUSED** FROM VOTING IF:

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

- ☐ The matter before the board/council involves your own personal financial interest (the compensation and allowances of your own board is not included in this prohibition).  
**G.S. 153A-44 (counties), G.S. 160A-75 (municipalities)**
- ☐ The matter before the board/council involves your official conduct.  
**G.S. 153A-44 (counties), G.S. 160A-75 (municipalities)**

# CONFLICTS OF INTEREST IN PUBLIC CONTRACTING: VOTING RULES

Use this flowchart to determine if voting on a contracting matter will result in a criminal penalty (*see reverse side for more guidance on voting requirements and prohibitions*).



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 they serve if they or their spouses will derive a **direct benefit** from the contract. A violation is punishable as a Class 1 misdemeanor and the contract is rendered void.

**Making a Contract:** A board member is involved in **making a contract** if he or she participates in developing 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.

**Administering a Contract:** 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.

**Direct Benefit:** A board member receives a **direct benefit** if the member or the member's 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.

**Exceptions:** G.S. 14-234 includes five **exceptions**. 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** are:

1. Contracts between a public agency and a bank, banking institution, savings and loan association, or a public utility.
2. Interest in property conveyed under a superior court judgment 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 that 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; board members should consult their attorney before relying on this exception.*