

UNDERSTANDING YOUR DEED MATTERS

Deeds matter, and as property ownership changes or if your land is facing development pressure, having a clear understanding of your property boundaries is vital. It is **important** to visit the land to know what is happening on the land and to be sure it isn't being used, encroached upon, and/or that the **boundaries** are clearly marked.



What is a Deed?

A legal document used to transfer real property from one person to another. A deed is typically used to show your ownership rights for a piece of property. When you purchase or are gifted land, a deed is prepared and filed in the Register of Deeds Office in the county in which the property is located.

Components of a Deed

- ♦ **Grantor:** Party conveying the property
- ♦ **Grantee:** Party purchasing the property
- ♦ **Description:** Should be descriptive enough for another person to identify the land and may include the tax parcel identification number, the address, and a plat map, which is a filed survey that shows the location and boundaries of the land. The description should also include the existence of prior easements and any earlier conveyances of parts of the land.
- ♦ **Amount paid:** ("Consideration")
- ♦ **The Chain of Title:** Where/from whom did the former owner get the land?
- ♦ **Signature:** Grantor's notarized signature

What are the Main Types of Deeds?

There are **three** main types of deeds:

Warranty Deeds: Warranty deeds provide the most protection to the purchaser and "warrants," or promises, that good title is being granted. A warranty deed usually contains assertions that the former owner was in lawful possession; that the owner has the right to convey; that the title is good and there are no encumbrances that haven't been disclosed; and that the former owner will defend the title against claims from other people.

Special Warranty Deeds: Special warranty deeds, sometimes called "limited warranty deeds," will also contain some protections but only against certain defects in title and may have specific exclusions.

Quitclaim Deeds: Quitclaim deeds are also valid deeds, but they are similar to the idea of purchasing the property "as is" and do not contain any warranties as to the validity of the property's title.

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UNDERSTANDING BOUNDARY LINES

Having a clear and current property description is important because it identifies the boundaries, location, and acreage of your property. Having a survey map prepared and filed is a very helpful visual representation of the land.

In Some Situations, a New Survey May be Helpful in Describing Your Property

Potential Examples:

- ✦ If you inherited your property and the property description has not been updated since the original family member owned the property
- ✦ If the deed is written in cursive or contains an old property description that describes the property using landmarks and reference points that are outdated or no longer exist; for instance: a monument at "Joe Johnson's corner" or an "oak tree" or "fence post"
- ✦ If the property descriptions contain measuring words like "chains" instead of "degrees"

If You Need to Hire a Surveyor to Assess Boundaries

You may need to hire a licensed surveyor to create an updated map of your property boundaries. A surveyor should give you an estimate and a clear listing of what they will be preparing as part of the services being offered. If a map is prepared or updated for your property description, consult with the surveyor about having the map filed with the Register of Deeds in the county in which the property is located. You can locate a surveyor here:

North Carolina Board of Examiners for Engineers and Surveyors

4601 Six Forks Rd., Suite 310

Raleigh, NC 27609

(919) 791-2000

https://www.ncsurveyors.com/find_surveyor

What are Easements, and How Do They Impact My Ownership?

Easements are right of ways that allow access across your property to another landowner. If a road or driveway crosses your land, an express easement may have been granted by a prior landowner. An **express easement** is a written agreement describing the location and purpose of the easement and is between the landowner and a person that will use the easement. This type of easement can usually be located in the county Register of Deeds and will be a part of the chain of title. If there isn't a recorded easement, consult an attorney about any rights or responsibilities you may have relating to the roadway.

Types of Easements

- ✦ **Utility:** Allows upkeep and maintenance to a public utility company (power, light, water, sewer, Department of Transportation)
- ✦ **Roadways** (Allowing access to a neighbor): Easements are a right of access rather than an ownership interest, and the party using the easement should provide maintenance and upkeep to the easement. If you have an easement crossing your property, you cannot interfere with your neighbor's usage if there is a **recorded** easement benefitting the neighbor's property. If you don't know if there is a filed easement, consult an attorney.
- ✦ If you do not have road access to your property, consult with an attorney to assess whether another type of easement is right for you.

This document provides general information only and is **not** intended to provide legal advice on a specific legal issue or to substitute for the advice and work of an attorney.