

## RECORD NOTICE UPDATE – MAY 2008

There has been some confusion about the difference between a title and a deed, and also concern among Register of Deeds offices about how this may be implemented within a computerized lands records system.

To address the first concern we've changed the language in the model to more closely mirror the statutory language and to avoid concerns about changing the title, which is not the same thing as changing a deed. Because the title is not the deed, we think that under the old language you still have the flexibility, to indicate in some manner, the proximity of a parcel to an agricultural district. This might be done by including some notice with the title that indicates this proximity -- or in effect by modifying the title. The deed, however, should be unchanged by this process. To avoid confusion though, we added this new language below to the county and municipal models.

### **\*Old Language\***

"When \_\_\_\_\_ County computerizes its County Land Records System the following requirements outlined in this section shall be implemented and enforced. Upon certification of qualifying farmland and designation of real property as a District, the title to that qualifying farmland and real property, which is contained in the \_\_\_\_\_ County Land Records System shall be changed to include a notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half aerial mile of a voluntary agricultural district."

### **\*New Language\***

"When \_\_\_\_\_ County computerizes its County Land Records System the following requirements outlined in this section shall be implemented and enforced. Upon certification of qualifying farmland and designation of real property as a District, the \_\_\_\_\_ County Register of Deeds shall [leave this provision out of your ordinance if your county land record system will not support this] shall provide some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half aerial mile of a voluntary agricultural district."

For local governments that have the **\*older\*** language they can amend the ordinance to include the newer language. However, for those communities, that use a computerized land records system, and that will continue to operate with the older language they should still be able to add a notice to the title so that anyone doing a title search will see that a property is within the 1/2 aerial mile of a voluntary agricultural district.

Just a quick note here that this is not legal advice or guidance, but the above comments are suggestions about how you might include and work with this provision in your ordinance. All counties and municipalities should consult with their county and municipal attorneys, agricultural advisory boards, and register of deeds offices prior to making changes to or implementing the record notice of proximity provision contained within their ordinances.

I'll try to provide examples of forms used to record agreements with register of deeds offices online as they are sent to me. I have posted Cumberland County's on this site:

<http://www.cals.ncsu.edu/wq/lpn/ncordinances.htm>.