

# 360 Years of Perambulation

By Christopher J. Porter

What comes to mind when you hear the word perambulation?

1. Arcane, archaic state statutes?
2. Au-pairs pushing prams though Hyde Park?
3. Beating the bounds?
4. PERambulation? I thought it was PREambulation!
5. Selectmen tramping though the woods in search of "a certain large maple tree" mentioned in the town's charter that probably died back in 1783?
6. Pre-meditated amputation?

If you said "some of the above" (numbers 1, 3 and 5) you are clearly a keen student of perambulation, the subject of which was the focus of a survey conducted this past summer by the New Hampshire Municipal Association (NHMA). Before diving into the study's findings, a bit of background on perambulation may be useful.

By definition, according to *Merriam-Webster*, to perambulate is to: (1) travel over or through, especially on foot; or (2) make an official inspection of (a boundary) on foot. Although the etymology is Latin, the "modern" form and usage of perambulate dates to 1568.

Perambulation was a colonial import, as described in the following piece on the custom's British traditions, "Selectmen on the Trail!" by James W. Baker, published at [Jabez Corner](#):

Years ago, one of the more practical festivals of the Christian Year was Rogation. A moveable holiday that occurred the Monday, Tuesday and Wednesday before Ascension Thursday, Rogation was when each town organized a procession to trace the parish or borough boundaries. Civic and religious leaders led a perambulation which stopped at each boundary marker where a prayer was given (in part to prevent evil spirits from spreading diseases and spoiling the harvest) before returning to the church for cakebread and ale. Another feature was the practice of "beating the bounds" which was done both figuratively by pacing them off and literally with peeled willow wands to both the boundary markers themselves and to little boys brought along for the purpose in order to impress upon their memories the exact location of the true parish boundaries so that when they grew up they could attest to the boundaries even if the markers went astray, and carry on the tradition. They were also often given a small coin for their troubles.

While perambulation in Britain is rooted in church customs and parish boundaries, perambulation of municipal boundaries in this country became a secular, civic responsibility. To some extent, the custom remains in all New England states, but perhaps nowhere more adhered to than here in New Hampshire.

Looking around New England, Massachusetts remains the only other state with a statutory requirement for municipal boundary walking. Although perhaps even more often ignored than in New Hampshire, Massachusetts requires that this be done every five years, rather than our seven. Maine's every-five-year perambulation statute was repealed in 2003. (A similar movement was thwarted by the New Hampshire General Court in 2005). Maine and Vermont now seem only concerned that their state border with New Hampshire be perambulated every seven years.

### **New Hampshire Statutes**

Armed with a bit of the history and the meaning of perambulation, we turn to the statutory requirements imposed on the cities and towns of New Hampshire. While RSA 1:1-:7 deal with the perambulation of New Hampshire's state boundaries, RSA 51:1-:9 cover the municipal obligation, the heart of which is the following: "51:2 Perambulation of Town Lines. - The lines between the towns in this state shall be perambulated, and the marks and bounds renewed, once in every 7 years forever, by the selectmen of the towns, or by such persons as they shall in writing appoint for that purpose."

Section 51:4 goes on to require that the details of the perambulated boundaries be filed with the Secretary of State, the effect of which is their filing with the State Archives. The remaining sections of statute deal with disagreements between municipalities, perambulating unincorporated areas, and the penalty imposed upon selectmen of a town refusing to cooperate and participate in a neighboring community's boundary walking, once proper warning of said perambulation is provided.

Today's statutes have their roots in the Colonial Laws of the Massachusetts Bay Colony, which, as referenced in *The Colonial Laws of Massachusetts*, by William H. Whitmore, as early as 1651 required that:

...every Town shall set out their Bounds, within twelve months after their Bounds are granted: and that when their Bounds are once set out, once in three years, three or more persons of a Town, appointed by the Select men, shall appoint with the adjacent Towns, to go the Bounds betwixt their said Townes and renew their marks; which marks shall be a great heap of stones, or a Trench of six foot long and two foot broad, the most ancient town to give notice of the time and place of meeting for this perambulations; which time shall be in the first or second month, upon pain of five pounds for every Town that shall neglect the same....

Imagine having to find a "great heap of stones" after three New Hampshire winters and spring frost heaves. This perambulation business has never been easy, not to mention the five-pound fine for being neglectful, a healthy sum of money back in the day.

The statute was little changed by 1759, as noted in *Laws of Hampshire, Vol. 3 Province Period 1745-1774*:

...the Bounds of all townships within this province, shall be perambulated betwixt town and town, and marks renewed once in three years by two of the select-men of each town, or any other two men whom the select-men shall appoint; the select-men of the most ancient town to give notice unto the select-men of the next adjacent towns, of the time and place of meeting for such perambulation, six days before-hand; on pain of forfeiting five pounds....

The "great heap of stones" is gone by 1759, probably for obvious reasons, but not the five-pound fine. (See pg. 15 sidebar by Brian Burford for more historical notes.)

### Current Practices

Fast-forward to 2010. RSA Chapter 51 still bears a strong similarity to its predecessors. Despite the possibility of a violation for non-compliance with a neighboring community (dating to 1651), there is no penalty imposed on a New Hampshire city or town for failing to initiate a perambulation of its *own* boundaries.

Therein lies the catalyst for the New Hampshire Municipal Association (NHMA) survey on perambulation, organized in conjunction with the New Hampshire State Archives and New Hampshire Surveyors Association. The following questions formed the basis of our survey of key local officials and employees:

- How widespread is voluntary perambulation in accordance with the RSA 51:2 mandate?
- Are details being filed with the State Archives?
- Where, locally, are the records kept?
- Who's in charge of the process?
- What are the impediments to regular, timely perambulation of municipal boundaries?

Data collection dates ran from June 20 to July 20, 2010. The survey was administered by way of an Internet survey tool. Survey invitations were e-mailed to one key official or employee in each of the state's 234 municipalities. In some cases, these original invitations were forwarded to other employees or officials who were deemed to be the more appropriate respondent for this study.

The sample consists of 104 complete and 33 partially complete surveys. The sample of 104 represents 44 percent of the state's municipalities and 49 percent of its population, including nine cities and 95 towns.

The survey began with a simple awareness question: "Are you familiar with the New Hampshire statutes (RSA 51) which describe the perambulation (walking) of municipal boundary lines?" A full 88 percent of the responding municipalities indicated their familiarity with the statutes, with the remainder either unaware or unsure.

Who's in charge of overseeing the perambulation of city and town boundary lines? In most towns, this duty falls to the selectmen, who are statutorily charged with the responsibility unless otherwise delegated. When a city or town manager or administrator is present, this office is also frequently involved. Otherwise, the person or department in charge of perambulation varies from the public works department to the planning department. In only 7 percent of the municipalities surveyed is there no one specifically in charge of perambulation. (See results in [sidebar table](#).)

Next, a trio of survey items asked: Are the whereabouts of your municipality's perambulation records known? Where are these records kept? Are the records available to the public?

A healthy 82 percent indicated that the whereabouts of their perambulation records is known and, of these, at least 95 percent said they are available to the public. The specifics of their whereabouts are detailed in the [sidebar table](#).

The next pair of survey questions dealt with the heart of the statutory requirements: Within the last seven years, have all, some or none of your municipal boundary lines been walked? Have the details of your most recent perambulation(s) been filed with the New Hampshire Secretary of State or the State Archives?

The following summarizes the total-sample findings from these two questions:

#### **Boundaries Walked?**

All 14%  
Some 55%  
None 19%  
Don't Know/Not Sure 13%

#### **Details Filed?**

Yes 45%  
No 18%  
Don't Know/Not Sure 37%

Clearly, the percentage of municipalities in full compliance with RSA Chapter 51 is quite small. There is also a sense from the second finding that the details of the filing requirement may not be well known.

The penultimate question reads: Are you aware of any conflicts or problems with your municipal boundaries? (For example, an abutting city/town may disagree on the precise location of a boundary; or, abutting municipalities may be issuing tax bills for the same parcel due to a boundary line dispute.) Just 5 percent of the responding municipalities indicated any known conflicts or problems with their boundaries.

The survey concluded with this query: "Historically, what have been the impediments or difficulties, if any, related to conducting regular perambulations of your municipal boundary lines?" Although this question was open-ended in nature, the varied responses collapsed neatly into a top-10 list of impediments to perambulation. See results in the [sidebar table at right](#).

The first and third categories could probably be combined to form an obvious, #1 response under the general heading of "scheduling difficulties." Considering the number and nature of New Hampshire's topographical challenges, the "terrain/topography" category is perhaps smaller than anticipated. Many of the following verbatim responses to this question are highly illustrative of these top-10 impediments to perambulation.

- Swamp land!!!!
- Finding willing personnel with available time.
- The territory that you have to cross to perambulate our boundaries is very primeval and difficult to walk.
- Finding time between the towns, and trying to get it done in decent weather conditions, as some of our boundaries go through swamps and other water sources.
- Very low priority ... extremely wooded and remote locations.
- Weather ... getting the other towns to find good dates that correlate to our availability ... also, being able to find documentation from previous perambulations to guide us on our way.
- We have contacted the abutting towns to try and do a joint perambulation and have not had any success.

At least one of the top-10 impediments-lack of knowledge-will be addressed at a perambulation-oriented session at the New Hampshire Local Government Center's annual conference. The session will focus on record keeping and filing, along with the use of GPS technology. Panelists will include the state archive records manager and a licensed land surveyor.

Considering the gravity of the impediments, and the lack of enforcement power in the statute, it's somewhat surprising that as many as 14 percent of the surveyed municipalities are completely up-to-date, and that another 55 percent are at least somewhat current.

### **Rationale for Walking the Line**

So, why, after 360 years of semi-dutiful perambulations, are New Hampshire municipalities still required to walk and mark their boundaries every seven years-forever? Wouldn't a hand-held GPS device get the job done more efficiently and accurately? There's little doubt that the GPS coordinates of known, visible boundary markers could be catalogued once and be done, forever. But, what if the marker itself disappears? GPS records may lead us straight to the site of the once-beloved "certain large maple tree." But if the tree was taken out by Hurricane Bob back in 1991, and that line hasn't been walked since, that boundary point is left unmarked and needs to be re-established and re-set.

As recently as 2005, the state legislature entertained a bill (HB 70) that would have repealed the perambulation statute, just as Maine had done two years earlier. But the bill never made it out of the House Municipal and County Committee. Writing for the majority of the committee, Representative Peter Schmidt provided the following rationale for not recommending the perambulation statute's repeal:

This bill would repeal RSA 51:2, relative to required perambulation of the town borders. The committee heard convincing testimony that the maintenance of communities' borders is a vital function, specifically by attending to the condition, position and visibility of marker monuments, with necessary repair or replacement of damaged or lost monuments. This requires perambulation by the selectmen or their designee, not merely some type of GPS involvement. Whether these functions are currently being faithfully executed or dishonored in the breach, elected officials can not neglect or disregard their sworn duty to protect and maintain their towns' borders.

Unbeknownst to most of us who don't own property on town lines, modern-day boundary disputes still arise between abutting landowners, and between landowners and municipalities. Case in point is an ongoing dispute between a land- and homeowner in Middleton, New Hampshire. Or is it Wakefield? That is the question. Whether it's nobler to live in one than the other. And be taxed more highly by one than the other.

As noted in a July 10, 2010, article published by *Foster's Daily Democrat*, the landowner has threatened to sue both towns for "perambulation fraud." That's about as 21st century as a perambulation skeptic could ask for! Said property owner maintains that his house is in Middleton; but it's Wakefield that taxes him. The reader might conclude that the property owner was intent on proving that his house was in the town with the lower tax rate, but, in this case, the very opposite is true.

A recent survey of the disputed boundary (which is also a county line) showed the line as perfectly straight between two known points. An intermediary marker was physically lost to time, but not to town and property records. The homeowner asserts that if the intermediary marker were taken into account, the boundary line would be bowed or S-shaped, as recorded in historical documents. His house sits in the bow of the line, which clearly places his home in the town of Middleton, not Wakefield.

At last check, the perambulation fraud dispute goes on, as will, undoubtedly, the wisdom of retaining New Hampshire's perambulation statutes.