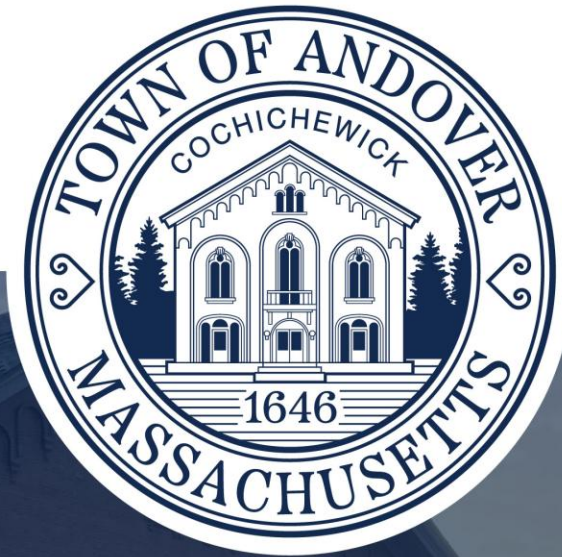


Central Street Historic District Commission



January 13, 2026

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Discussion Topics

- Introduction of Commissioners (5 minutes)
- Introduction to Central Street's History (10 minutes)
- Overview of M.G.L. Chapter 40C (10 minutes)
- Overview of the Central Street Historic District (15 minutes)
- Open Meeting Law (15 minutes)
- Public Records Law (10 minutes)
- Election of Officers (5 minutes)
- Next Steps (5 minutes)

Introduction of Commissioners

- Lisa Dore
- Mark Rogers
- Katherine Robinson
- Barbara Mohrman
- Matthew Olsen
- James Sousa
- Michael Hendrickson
- Veena Kothapalli

Staff Support

Eric Tetreault,
Local Building Inspector

Lisa Schwarz,
Assistant Planning Director

Austin Simko,
Deputy Town Manager/Town
Clerk

Central Street's History



Lisa Dore
Study Committee Member

Overview of Ch. 40C



The Basics of Ch. 40C

- M.G.L. Ch. 40C, “Historic Districts Act”
- State law enacted in the 1960s
- The authority for all historic districts in Massachusetts
- Provides process for creating, amending, enlarging, and reducing historic districts
- Provides guardrails and options for localities

What are Local Historic Districts?

Historic districts are areas designated as historically or architecturally significant. They have three major purposes:

1. To **preserve and protect** the distinctive characteristics of buildings and places significant in the history of the Commonwealth and its cities and towns.
2. To **maintain and improve** the settings of those buildings and places.
3. To **encourage new designs** compatible with existing buildings in the districts.

Benefits:

- Preserve a community's history
- Preserve the character of neighborhoods and streetscapes
- Protect residents' investments in their homes

What Must be Reviewed

The following must be reviewed within a local historic district:

- New buildings
- Additions
- Relocations
- Demolition
- Other alterations visible from a public way – for example:
 - Roof materials
 - Siding and trim
 - Windows and doors

What Cannot be Reviewed

The following cannot be reviewed by a LHD Commission, per M.G.L. Ch. 40C Section 9:

- **Interior** changes
- Changes to exterior architectural features **not visible** from public way
- **Ordinary maintenance**, repair, or replacement which does not involve a change in design, material, color, or outward appearance
- **Landscaping** with plants, trees and shrubs

What May be Reviewed

The following can be reviewed or exempted from review by a LHD Commission, per MGL Ch. 40C Section 8:

1. Temporary structures or signs
2. Terraces, walks, driveways, sidewalks and similar structures, provided that any such structure is substantially at grade level
3. Walls
4. Fences
5. Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae and similar appurtenances
6. Paint color
7. The color of materials used on roofs

What May be Reviewed (continued)

8. **Signs of not more than one square foot for a residence for a customary home occupation or for professional purposes**, provided only one such sign is displayed in connection with each residence and, if illuminated, is illuminated only indirectly.

9. **One sign in connection with the nonresidential use** of each building or structure which is not more than 12 square feet, consists of letters painted on wood without symbol or trademark and, if illuminated, is illuminated only indirectly.

10. The reconstruction, substantially similar in exterior design, of a building, structure or exterior architectural feature **damaged or destroyed by fire**, storm or other disaster, provided such reconstruction is begun within one year.

Reviewed Activities: Post-Enactment of District

After an historic district is created . . .

“A commission may determine . . . that certain categories of exterior architectural features, colors, structures or signs . . . may be constructed or altered **without review by the commission** without causing substantial derogation from the intent and purposes of this chapter.”

MGL Ch. 40C Section 8(b)

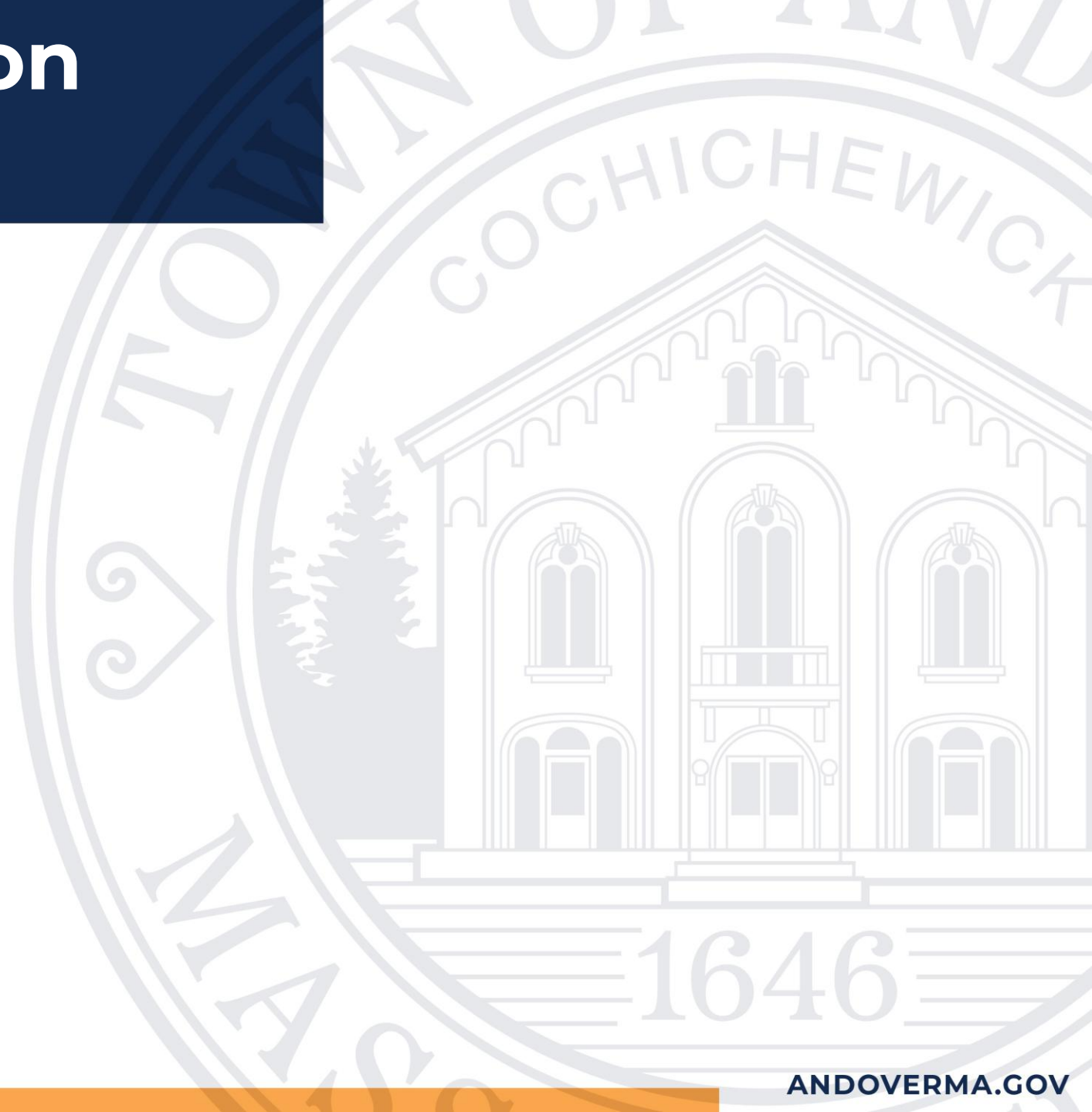
The **Design/Review Guidelines can more precisely define criteria and processes** ranging from broad categories (e.g., new construction and hardship) to specific issues (e.g., solar panels and open space).

Types of Commission Decisions

Certificates of Appropriateness

Certificates of Hardship

Certificates of Non-applicability



Commission Decisions

Factors to Consider:

- The **historic and architectural value and significance** of the site, building or structure.
- The **general design, arrangement, texture, material and color** of the features involved, and the relation of such features to buildings in the surrounding area.
- In the case of new construction or additions, the **size and shape of the building** in relation to the land area and to buildings in the vicinity.
- The commission **shall not** make any recommendation or requirement except for the purpose of preventing development incongruous to the historic aspects or the architectural characteristics of the surroundings and of the historic district.

Enforcement & Appeals

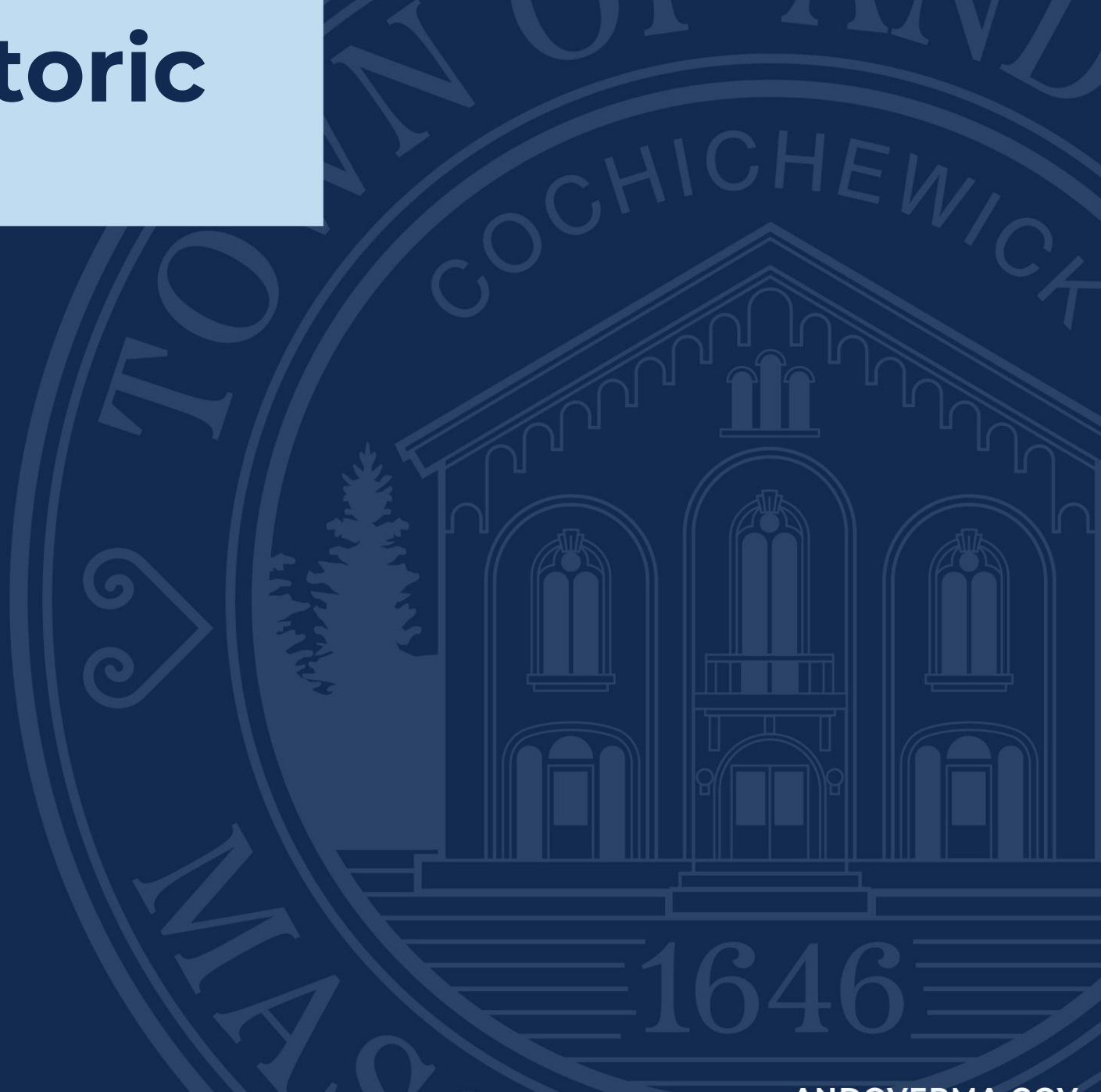
Enforcement Tools:

- Withholding approval until compliance achieved
- Fines for violation
- Injunctive relief
- Adjacent Building Code enforcement
- “Soft” enforcement tools, i.e., communication with Building Inspector and other permitting authorities

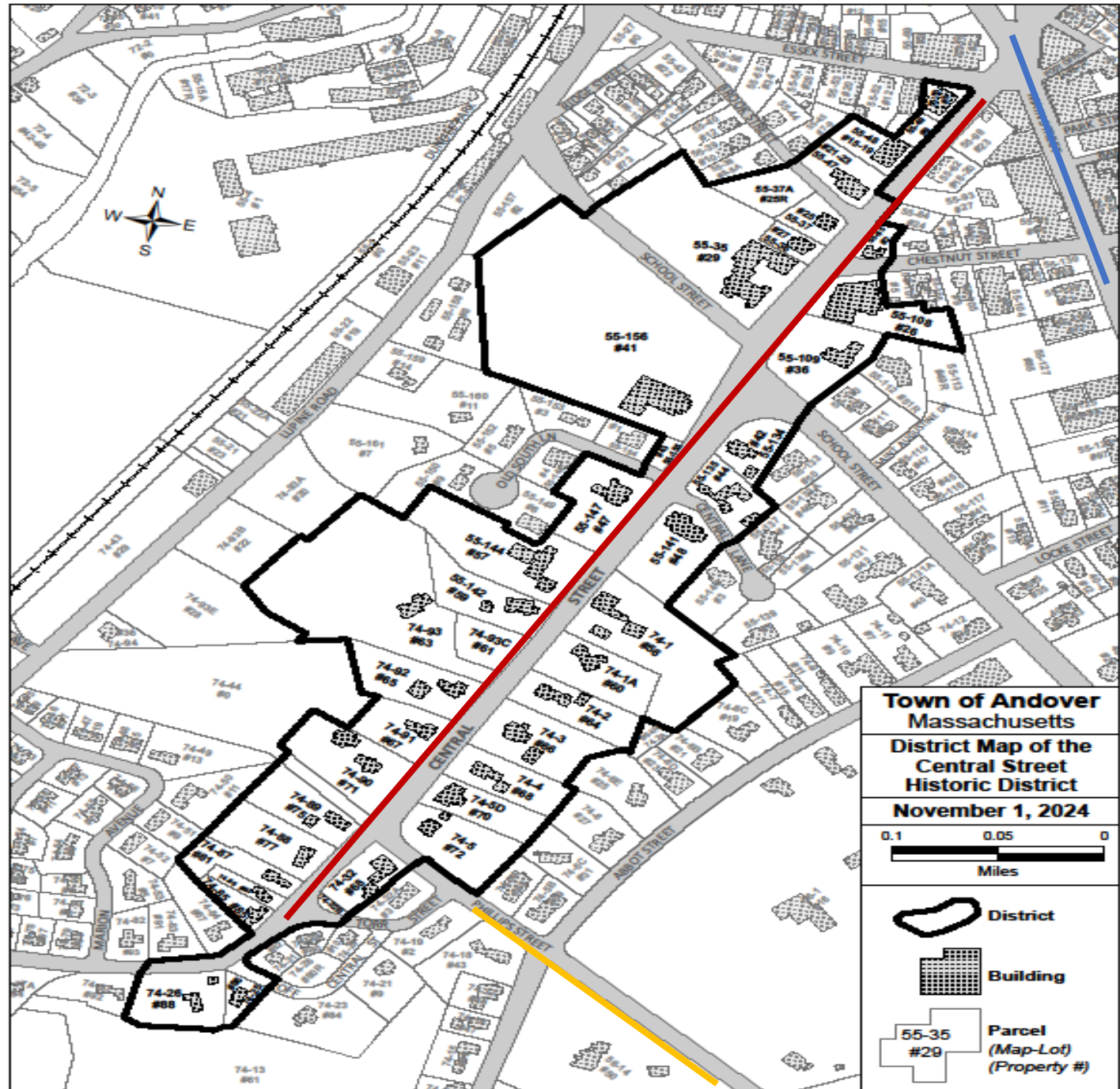
Appeals:

- Merrimack Valley Planning Commission
- Superior Court

Central Street Historic District



Boundaries of District



Items Exempted from Review

Activity	Committee Recommendation
Temporary (i.e., 3 months) buildings, structures, signs	Exempt
Permanent signs for residential office	Exempt
Permanent signs for nonresidential uses	Exempt
Terraces, Driveways, Sidewalks, and other Structures at grade level.	Exempt
Storm doors and windows; screen windows and doors; window AC units	Exempt
Exterior lighting fixtures	Exempt
Satellite dishes	Exempt

Activity	Committee Recommendation
Paint color and type	Exempt
Roofing materials color	Exempt
Reconstruction of buildings, substantially similar in exterior design, damaged by fire or storm	Exempt
Stone/masonry walls	Review
Fences	Exempt
Solar panels	Exempt

Pragmatism and Collaboration

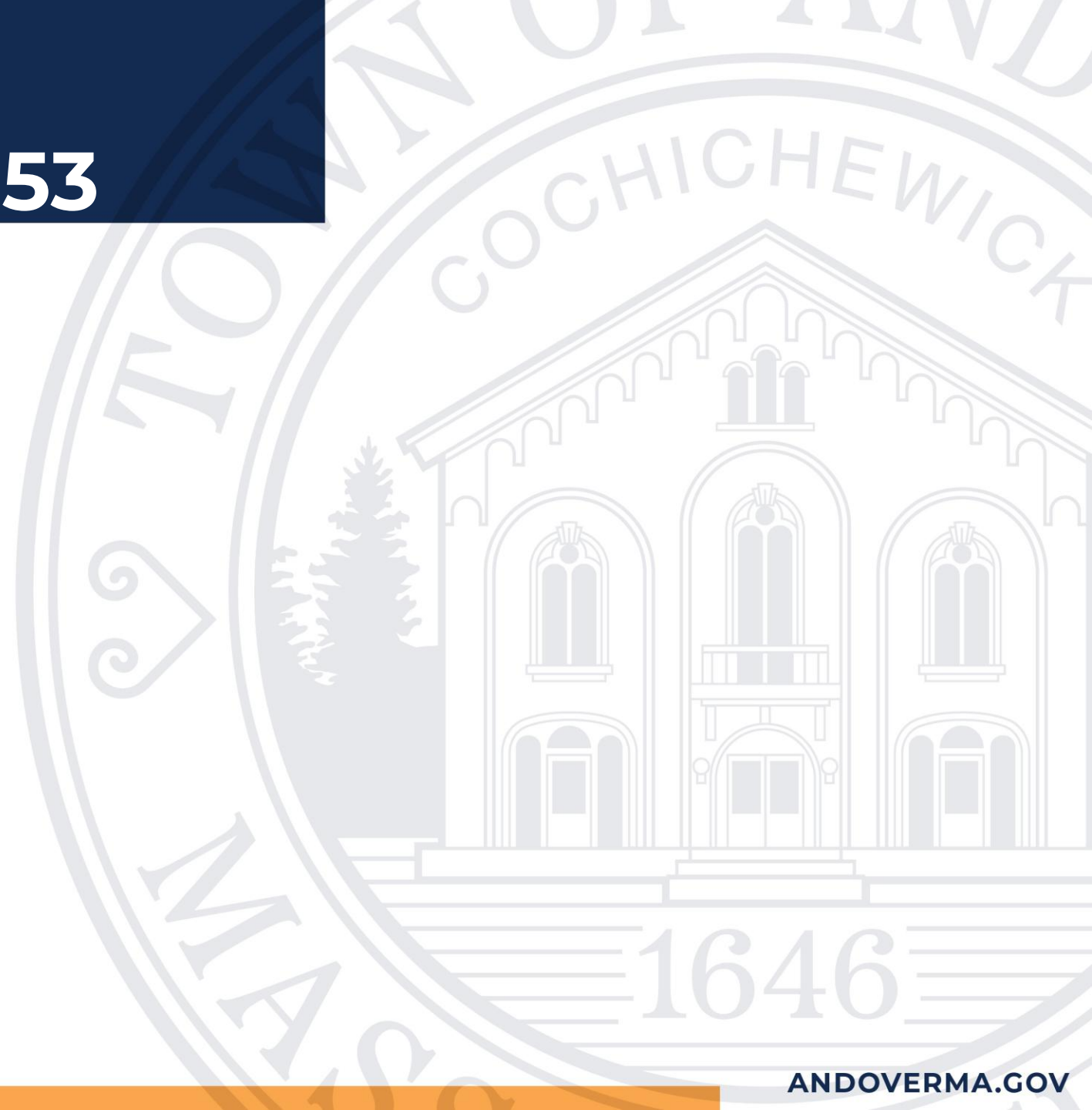
“This Bylaw intends for the Central Street Historic District Commission, through its design guidelines and other lawful actions, to **fulfill its duties pragmatically** in a manner that **reasonably balances historic preservation with striving to collaboratively accommodate the particular desires, burdens, and circumstances of those who submit applications** under this Bylaw.” (Bylaw, Section II.)

“The Commission, at all times, shall act with **a clear understanding of the needs and hardships of the property owners**, businesses and residents of the Central Street Historic District to **enjoy the amenities of modern life in the use of their homes** and properties.” (Bylaw, Section V.C)

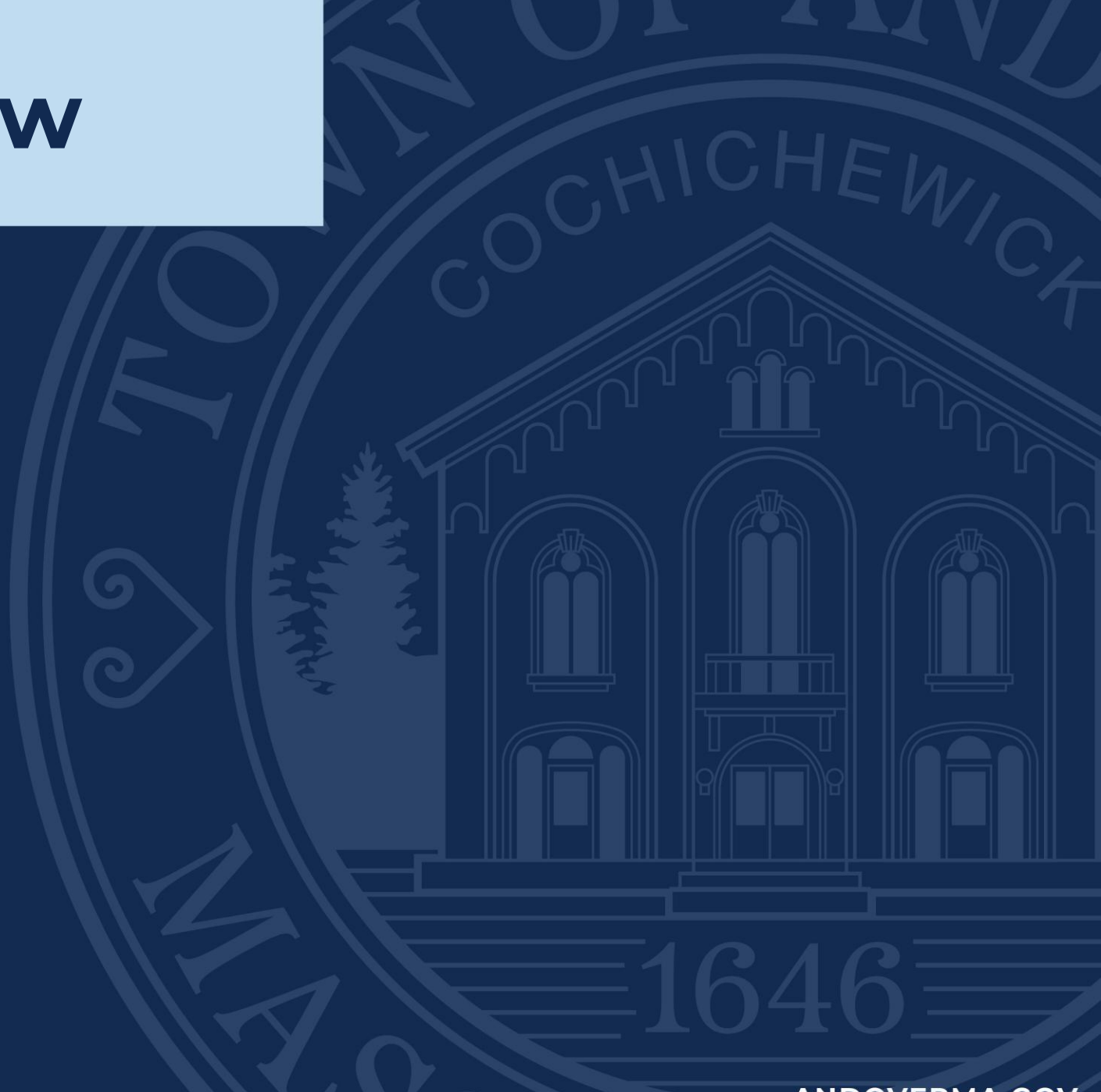


The Bylaw – Article XII, Section 53

Any Questions?



Open Meeting Law



Open Meeting Law Basics

Transparency Before, During & After Action by a Public Body

- Before = Notice
- During = Public Deliberation
- After = Accurate & Accessible Minutes

What is a “Meeting?”

Meetings

1. A “deliberation;”
2. by a “public body;”
3. with respect to any matter within the body's jurisdiction; excluding...

Without Deliberation* Among Quorum Not a Meeting

- A. On-site inspections
- B. Public or private gatherings, including a conference or training program or a media, social or other event,
- C. A meeting of another public body that has complied with the notice requirements of the open meeting law,
- D. Quasi-judicial board meetings in an adjudicatory proceeding
- E. Town Meeting sessions

Notice

All Public Bodies must post notice and agendas for any and all meetings.*

- Date, time, and location
- Details sufficient to “reasonably advise the public” of the issues, items and actions to be discussed

The posting must be made with the Town Clerk 48 hours prior to the meeting excluding Saturday, Sunday and legal holidays.

- Andover adopted the municipal website option for posting

Only those matters on a duly posted agenda in timely fashion may be discussed at a meeting.*

Notice In Depth

- **Unanticipated Matters, Emergency Meetings & Additions to Previously Noticed Meetings**
 - Wait until duly noticed meetings unless *immediate action* is required
 - Emergency = “[a] sudden, generally unexpected occurrence or set of circumstances demanding *immediate action*.”
 - Both require updates to the agenda and posting ASAP.
- **General placeholder items are discouraged**
- **Notice under the OML does not satisfy all hearing requirements.**
- **Notice and Open Forums/Resident Feedback**
 - No specific exception for responding to resident comments
 - Public comments do not need to be addressed in the meeting.

Deliberation Defined

“Deliberation”, an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that "deliberation" shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

G.L. c. 30A sec. 18 (emphasis added)

Deliberation In Depth

- **Deliberations of a board or commission must be open to the public, unless:**
 - A body avails itself of limited statutorily authorized executive session purposes; and
 - Follows proper procedure for same.
- **Statutory exemptions to deliberations are limited:**
 - Distribution of a meeting agenda, reports or documents to be discussed provided that no opinion of members are expressed;
 - Scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.
- **No quorum = No meeting** (double-edged sword)
- **No right to public participation or comment under the Open Meeting Law**
- **Chair is vested with discretion to run the meeting and recognize speakers**

Deliberation In Depth

- **Not all meetings are hearings, but all hearings take place in a duly noticed meeting.**
 - Hearings typically require further procedure & public comment
 - The Chair still maintains significant control
- **All public comment may be subject to neutral parameters**
 - Total time limit
 - Speaker time limits
 - Colloquy and questions
- **Regulation of the content of public comment is highly discouraged.**
- **Email, App, & Social Media Deliberation**
 - Typically borne of desire to be responsive to residents and respectful to colleagues;
 - “Reply-all” correspondence vs. Serial communications and forwarding;
 - Members do not have to respond to constitute a violation.
 - All subject to the OML, but individual members maintain the right to make comments to the general public;
 - Mere membership in a platform “group” is not a violation; but direct communications over platforms poses potential for violations

Minutes

The Open Meeting Law Requires:

1. Sufficiently detailed minutes to allow someone who was not present to know what was discussed and the bases for decisions;
2. Including who was present, a record of votes, and all documents *used* at the Meeting; and
3. Approved within 30 days or three (3) meetings (whichever later), typically as an agenda item.
 - **Minutes Should Include:**
 - List of documents and other exhibits used at the meeting, including documents relied upon or referred to extensively even if not physically utilized;
 - **Minutes Need Not:**
 - Constitute a transcript
 - **Minutes May:**
 - Be approved by a designee such as the Chair

Select Issues: Remote Meetings

- **COVID-19-related measures to ease restrictions on remote participation remain in effect**
- **All members may participate remotely (suspending requirements such as the Chair and a quorum's in-person presence) provided:**
 - **“Adequate, alternative means” of public access**
 - ✓ Broadcast and phone line
 - ✓ teleconference
 - ✓ videoconference (typically “zoom”),
 - ✓ any other technology that enables public to follow proceedings in real time
- **Members participating should be announced, votes taken by roll call, and recordings should be noted.**
- **Practice note for hybrid proceedings: Ensure that all members have access to the same materials and information on each agenda item.**
 - Extended through June 30, 2027

Select Issues: Remote Meetings

- **Noticing remote or “virtual meetings” requires:**
 - **Clear Instructions on how to participate in person or virtually, typically by including the link to the meeting in the notice or directions for locating the log-in;**
 - **Insulation against abuse of teleconferencing is permitted through:**
 - Default AV controls (the public is not entitled to be seen on screen or to have screen-shared access)
 - Meeting links with passcodes
 - Registration permitted throughout the duration the meeting collecting limited information
- **Hearings* may have additional requirements.**

Executive Sessions In Brief

- **10 Specific and Narrowly Construed Purposes for Executive Session**
- **Strict Procedure for Executive Session**
 - Notice with specificity
 - Convene in open session
 - State purpose of entering session, whether will return to open session & roll call vote
- **Executive Session Minutes may be kept from public disclosure as long as the purpose of the executive session remains ripe**
 - Periodic review to affirm purpose or release minutes;
 - Some public records exemptions survive executive session release
- **Distinct Executive Session purposes may trigger distinct rights (i.e. employees, abatement applications, etc.)**

OML Enforcement

- **Primary Mechanism for Enforcement is the AG's Division of Open Government**
- **Potential Penalties for Violations**
 - Compel immediate and future compliance;
 - Compel minutes to be made public;
 - Public body training;
 - Impose a civil penalty up to \$1,000 for each intentional violation
 - Nullify all or part of any action taken at the meeting
 - Including reinstating an employee with back pay
 - \$1,000 intentional violations
 - "Other appropriate action."

Practical Advice

If it feels like you're trying to circumvent the Open Meeting Law...

- ❖ Distribution of reference materials containing arguments;
- ❖ Serial communications;
- ❖ Google Docs;
- ❖ Colloquy over social media; or
- ❖ Debate within other venues'

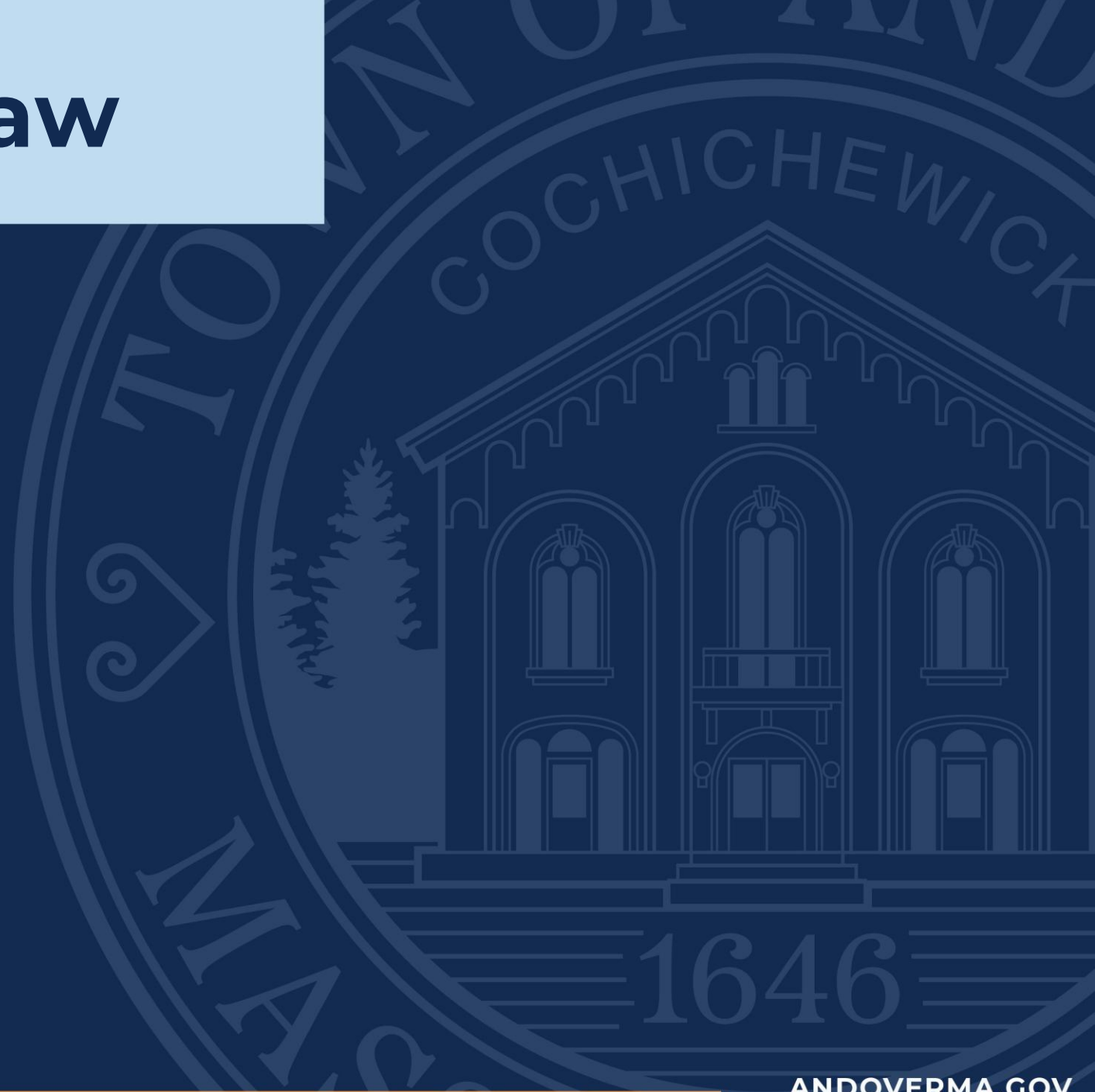
...then the Division of Open Government will probably find that you are violating the Open Meeting Law.

Practical Advice

Practical Ways to Limit Risks:

- ✓ Distribute Through Admins (including opinions handled with care);
- ✓ Work Through Your Chair;
- ✓ Use Official Email;
- ✓ Mind your “hats” in other meetings and on non-traditional media; and
- ✓ Err on the Side of Posting.

Public Records Law



Public Records Basics

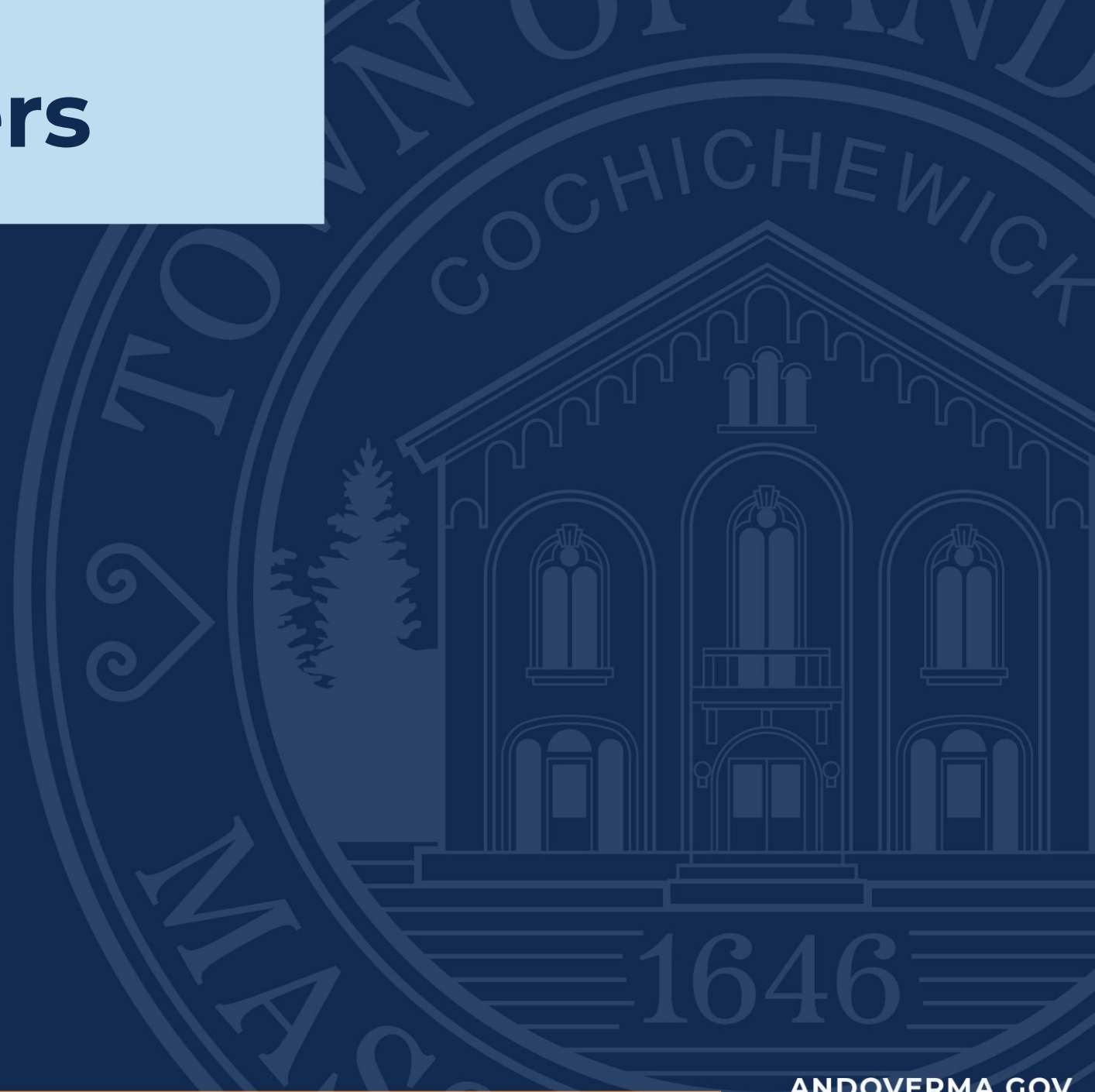
**G.L. c. 66 sec. 10, 10A & 10B; c. 4 sec. 7
950 CMR 32.00**

- **All records generated and/or received by the Town are public records**
- **Narrow exemptions may be applied**

Public Records Management

- **Record and forward request for processing – 10 Business Days for Responses**
- **Digitize paper records and post commonly requested records to the town website**
- **Develop standard naming conventions for folders and files**
- **Use your work email account for work related correspondence only**
- **Think before you create a document**
- **When in doubt, ask the Legal Department**

Election of Officers

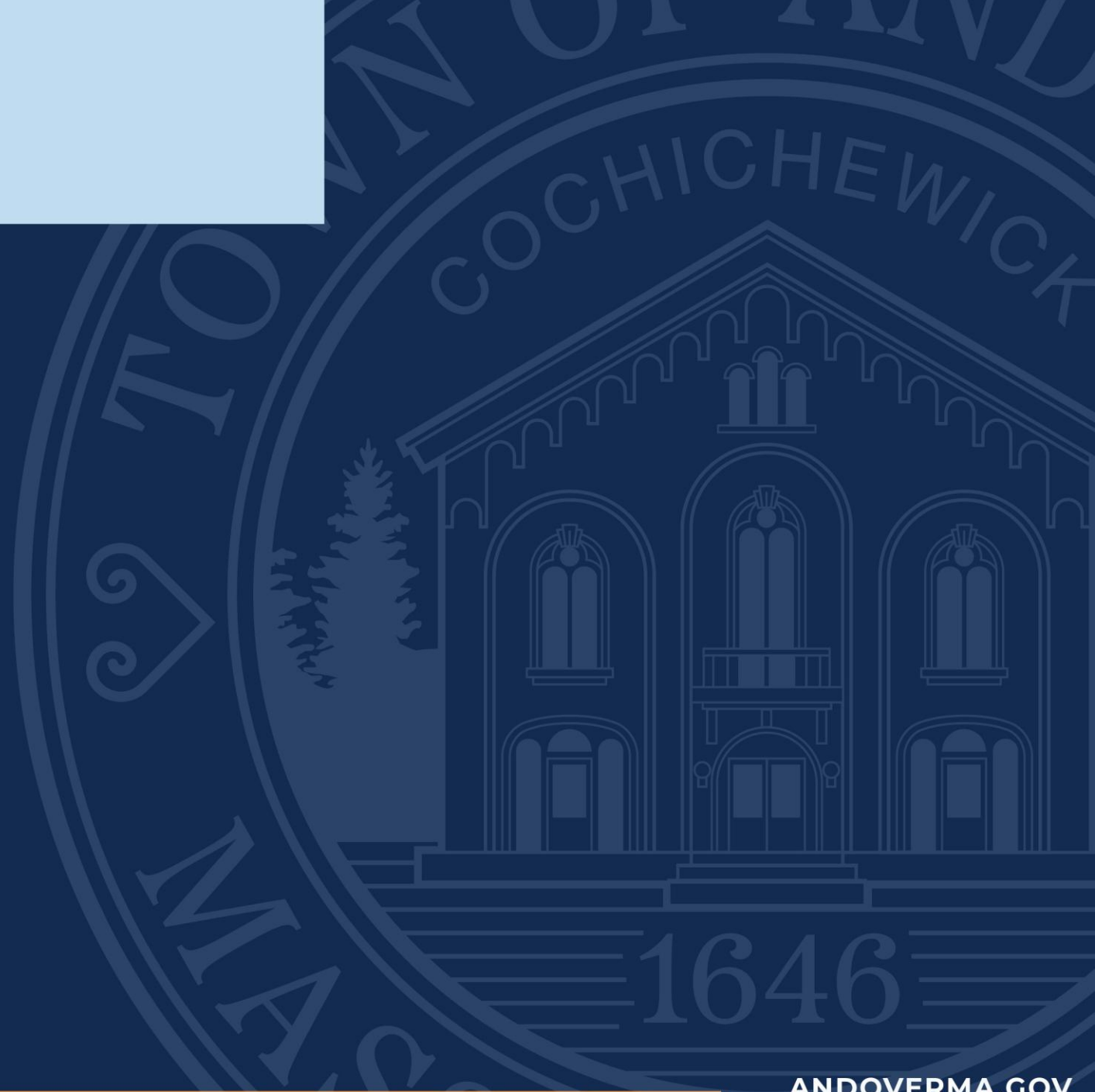


Commission Officers

- **Chair** – develops agendas and facilitates meetings
- **Vice Chair** – assists chair and stands-in for the chair
- **Clerk** – works with staff to ensure approval of minutes and effective flow of information

Note: election not necessary tonight

Next Steps



Next Steps

- Preferred meeting days and times?
- Election of officers
- Reviewing applications (as needed)
- Draft Design Guidelines
- What else?

Thank You



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