Office of the Revisor of Statutes
Administrative Rules

TITLE: Adopted Permanent Rules Regulating Capitol Area Commemorative Artwork

AGENCY: Capitol Area Architectural and Planning Board

REVISOR ID: R-4720

MINNESOTA RULES: Chapter 2400

INCORPORATIONS BY REFERENCE:

Part 2400.2703, subpart 3: Comprehensive Plan for the Minnesota Capitol Area is available on the Capitol Area Architectural and Planning Board website and is not subject to frequent change.

The attached rules are approved for
filing with the Secretary of State

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Capitol Area Architectural and Planning Board

Adopted Permanent Rules Regulating Capitol Area Commemorative Artwork

2400.2040 DEFINITIONS.

[For text of subparts 1 to 3, see Minnesota Rules]

Subp. 3a. **Addition request.** "Addition request" means the application form that an applicant submits to the board requesting the addition of a new artwork and describing why the applicant believes that the artwork should be added to the commemorative artwork collection.

[For text of subparts 4 to 8, see Minnesota Rules]

Subp. 8a. **Applicant.** "Applicant" means a person or group that submits an application for an addition, modification, or removal of the artwork.

Subp. 8b. **Architectural advisers.** "Architectural advisers" means the three members of the Advisory Committee on Architecture and Planning established under Minnesota Statutes, section 15B.11, who are responsible for advising the board on all architectural and planning matters.

[For text of subparts 9 to 19, see Minnesota Rules]

Subp. 19a. **Board staff.** "Board staff" means the employees of the Capitol Area Architectural and Planning Board, led by the executive secretary, who execute the decisions of the board.

Subp. 19b. **Capitol grounds.** "Capitol grounds" means the exterior areas of any state-owned land in the Capitol area including state-owned rights-of-way, the Capitol mall, and the exterior courtyards of state-owned buildings.

Subp. 19c. **Capitol mall.** "Capitol mall" means the open space between the Department of Transportation Building, Centennial Building, Veterans Services Building, and the Capitol, including the lawn surrounding the Capitol.

Subp. 19d. **Commemorative artwork.** "Commemorative artwork" means a monument, memorial, or other type of original piece in any style, expression, genre, or media that is the unique creative expression of an artist designed to memorialize cultural, social, and political aspects of Minnesota's history. A commemorative artwork expresses or reflects the collective memory of an individual person, group, or event. Commemorative artwork serves four primary functions:

A. to memorialize and remember;

B. to inform and inspire the viewer;

C. to have lasting historic and cultural significance; and

D. to accentuate and enhance the urban landscape.

Commemorative artwork may be event-based, temporary, or long-term. Any commemorative artwork that is event-based as defined under subpart 41a is not within the scope of this subpart.

[For text of subparts 20 to 24, see Minnesota Rules]

Subp. 24a. **Design framework.** "Design framework" means a plan that provides a structure for the organized development of an area to prevent ad hoc decision-making.

Subp. 24b. **Design process.** "Design process" means the process that the board follows after the board approves a request for the addition or modification of a commemorative artwork ~~to the Capitol grounds, a design review group selects a designer or design concept, and money is raised for the design and implementation. The design process~~ and includes:

A. the designer or design consultant selection and hiring process: soliciting, selecting, and hiring a designer or design consultant;

~~A.~~ B. the approval of a schematic design: the description of the overall design concept for an artwork;

~~B.~~ C. design development: a refined version of the schematic design with scaled drawings showing the architectural and site plan details and list of materials;

~~C.~~ D. the review and execution of construction documents: the instructions for contractors to build the artwork; and

~~D.~~ E. the bidding process: the search for a contractor to execute the artwork~~,~~ based on price and qualifications.

Subp. 24c. **Designer.** "Designer" means a person recognized as the lead practitioner in the creative vision and design development of an artwork.

[For text of subpart 25, see Minnesota Rules]

Subp. 25a. **Disposition.** "Disposition" means the termination of ownership and possession of an artwork from the commemorative artwork collection through sale, donation, or demolition.

[For text of subparts 26 to 41, see Minnesota Rules]

Subp. 41a. **Lifespan.** "Lifespan" means the time that an artwork is displayed in the Capitol area, which is:

A. event-based: an artwork displayed in the Capitol area for up to 14 days;

B. temporary: an artwork displayed in the Capitol area 15 days to one year; or

C. long-term: an artwork displayed in the Capitol area for more than one year.

[For text of subparts 42 to 50, see Minnesota Rules]

Subp. 50a. **Modification.** "Modification" means a process that changes the meaning, character, appearance, or interpretation of an artwork. A modification includes:

A. a relocation: the movement of an existing artwork to a different location in the Capitol area;

B. a structural modification: the addition, removal, or alteration of any physical aspect of an artwork; or

C. a recontextualization: the addition of interpretive material to an artwork, such as additional signage.

Subp. 50b. **Modification request.** "Modification request" means an ~~application form~~ applicant's request to modify a specific artwork that ~~an~~ the applicant submits to the board ~~regarding a specific artwork,~~ on an application form describing why the applicant is requesting to modify or relocate the artwork ~~and requesting modification of the artwork.~~ and including the primary concept and proposed plan elements of modification to the artwork and surrounding site.

[For text of subparts 51 to ~~65~~ 64, see Minnesota Rules]

Subp. 64a. **Public hearing.** "Public hearing" means a formal proceeding held by the board to receive comments from interested parties, including members of the public, on a proposed issue or action before the board for consideration or possible decision under Minnesota Rules, part 2400.2700, subparts 3 and 7.

Subp. 64b. **Public meeting.** "Public meeting" means a meeting that is open to attendance by the public and is hosted online or in a physical location accessible to the public.

[For text of subpart 65, see Minnesota Rules]

Subp. 65a. **Removal.** "Removal" means the ~~review process and decision under part 2400.2703 to remove~~ removal of an artwork from the Capitol grounds.

Subp. 65b. **Removal request.** "Removal request" means ~~an application form~~ an applicant's request to remove a specific artwork that ~~an~~ the applicant submits to the board ~~regarding a specific artwork, describing why the applicant is requesting to remove the artwork and requesting removal of the artwork~~ on an application form describing why the applicant is requesting to remove the artwork and including a potential disposition plan and a concept plan for restoration of the site after the artwork is removed.

[For text of subparts 66 to 69, see Minnesota Rules]

Subp. 69a. **Spatial envelope.** "Spatial envelope" means the shared, multidimensional space surrounding an artwork.

[For text of subparts 70 to 88, see Minnesota Rules]

2400.2703 STANDARDS FOR COMMEMORATIVE ARTWORK.

Subpart 1. **Guiding principles for commemorative artwork.**

A. The collection of commemorative artwork on the Capitol grounds must reflect the state's diverse history and people.

B. The board must:

(1) provide for public input, public access, and transparency in making decisions about commemorative artwork on the Capitol grounds; and

~~(2) consider the historic, architectural, and artistic integrity of the Capitol building; and~~

~~(3)~~ (2) review existing commemorative artwork as needed or every ten years to:

(a) gather public input regarding the commemorative artwork collection; and

(b) ensure that the artwork in the commemorative artwork collection meet the standards and intent of parts 2400.2040 and 2400.2703.

C. All decisions about commemorative artwork must account for the historic, architectural, and artistic integrity of the Capitol building and grounds.

Subp. 2. **Conditions for adding new artwork.** The board must consider displaying new commemorative artwork in the Capitol area if the artwork meets all of the following conditions:

A. there has been documented public support of the artwork;

B. the artwork has lasting statewide significance for Minnesotans;

C. the artwork is respectful of the diversity of Minnesotans;

D. viewing the artwork provides a rich experience to broaden the understanding of Minnesota's shared history, heritage, and culture; and

E. if an individual is the subject of an artwork, the individual must:

(1) have lived in Minnesota or the geographical area now identified as Minnesota for at least five years during the individual's life;

(2) have historical significance;

(3) be renowned and admired by Minnesotans; and

(4) have been deceased for at least ten years.

Subp. 3. **Application and review process for new artwork.**

A. An applicant requesting placement of a new commemorative artwork in the Capitol area must submit an addition request to the board using the ~~application~~ form available

~~from board staff~~ on the board website. The board website must ~~also~~ provide clear and accessible instructions for completing the application form. ~~When board staff receive a completed addition of a commemorative artwork request form, board staff must provide written confirmation of the application's receipt to the applicant.~~ Within ten calendar days of the board's receipt of an addition request, board staff must determine whether the application form is complete and inform the applicant of that determination. If ~~the information required by~~ board staff find that the application ~~form~~ is ~~not complete~~ incomplete, board staff must ~~notify~~ advise the applicant that the application is incomplete and ~~indicate~~ identify what information is missing to the applicant.

B. Once board staff determine that an application is complete, board staff must review ~~each complete application and prepare a report with a recommendation to the board on whether to accept the application. The full board must vote to accept or reject the application based on whether the application~~ the addition request and analyze whether the request meets all of the conditions in subpart 2. Board staff shall prepare a written report of the staff's findings.

C. Board staff must post a summary of the addition request and the board staff report on the board website. The posting must include timely updates about the application's status, opportunities for public input, and meetings of the board at which the application shall be discussed or voted upon.

D. After the staff report is posted on the board website, the board must open a 30-day public comment period and direct board staff to host or cohost at least one public meeting to gather input on whether the addition request meets all of the conditions in subpart 2. The public meeting may be hosted, organized, and managed according to subpart 10.

E. When the 30-day public comment period and public meeting are complete, board staff shall prepare a written summary of the public comments that the board received and provide a recommendation to the board on whether to accept the application and proceed

to the next step in the project review process or reject the application for failing to meet all of the conditions in subpart 2. The board shall meet and host a public hearing to consider the addition request, staff report and recommendation, and public comments that the board received. The board shall determine whether the addition request meets all of the conditions in subpart 2 and may advance for further review. A majority vote of the full board is required to accept the application and advance the application for further review.

(1) If the board accepts an ~~application for an~~ addition request application, board staff must notify the applicant~~.~~ and the Department of Administration within 14 calendar days of the board's vote accepting the application~~, board staff must notify the Department of Administration of the addition request and post a proposal summary on the board's website~~ for further review.

(2) If the board rejects an addition request application for ~~an addition request~~ failing to meet all of the conditions in subpart 2, board staff must notify the applicant ~~that the board has rejected the application for an addition request~~ in writing within 14 calendar days of the board's vote rejecting the application and provide the applicant with reasons for the rejection.

~~C.~~ F. After ~~accepting an application for~~ an addition request application is accepted by the board for further review, board staff and the board's architectural advisers must conduct a site selection study with the applicant ~~for the proposal~~. The Department of Administration must review and comment on proposed sites ~~where the board is considering displaying~~ for the commemorative artwork. Board staff and the board's architectural advisers must recommend a site for the proposed artwork to the full board based on the criteria for the location of new artwork in subpart 4.

~~D.~~ G. After board staff and the board's architectural advisers identify a site for the proposed commemorative artwork, the board ~~must hold a public hearing and must affirm through board vote that the proposal meets all of the conditions under subpart 2~~ shall meet

to determine whether the proposed location meets all of the criteria in subpart 4. After an opportunity to hear public comments at the board meeting, the board shall vote on the location of the commemorative artwork. A majority vote of the full board is required to accept a site location for any new commemorative artwork. The board must notify the applicant in writing of the board's ~~final~~ site selection decision within 14 calendar days of the meeting.

~~E.~~ H. If the board ~~approves of the proposed artwork~~ accepts the addition request application and approves of the artwork's location, the applicant must raise money or otherwise pay for the cost of ~~conducting a design competition~~ completing the design process. ~~This money covers the cost of the design selection process such as promotion, publicity, design review group expenses, and, in the case of a formal competition, awards or stipends for the competition finalists.~~

~~F.~~ I. The applicant must work with board staff and the board's architectural advisers to develop a design framework document that includes:

(1) the goals and objectives of the applicant;

(2) the applicable zoning standards, project planning parameters, or design guidelines for the selected site;

(3) the proposed budget, schedule, location, site-specific conditions, and technical parameters;

(4) the plan for informing and engaging key stakeholders and members of the public during the design ~~competition~~ process; and

(5) additional ~~competition~~ design process guidelines, including the composition of the design selection group, designer qualifications, the criteria that the design selection group must use, and submission requirements.

~~G.~~ J. In accordance with Minnesota Statutes, section 15B.21, subdivision 3, the board must provide testimony to the legislature on any commemorative artwork proposal in the Capitol area seeking ~~legislative authorization or~~ an appropriation of funding. The applicant may be asked to testify ~~on behalf of~~ about the applicant's proposal. This testimony must address the proposal's alignment with the ~~Capitol mall design framework and~~ design objectives of the Comprehensive Plan for the Minnesota Capitol Area, which is incorporated by reference, is not subject to frequent change, and is available on the Capitol Area Architectural and Planning Board website.

~~H.~~ K. Using the ~~Capitol mall design framework and~~ design framework developed according to item I and the design objectives in the Comprehensive Plan for the Minnesota Capitol Area incorporated by reference under item ~~G~~ J, the board must initiate either an open solicitation for design proposals or a request for qualification process to select a designer or design concept through ~~a design competition.~~ the competitive process outlined in the design framework and in accordance with the following steps:

(1) The board must assemble a design review group to assist the board ~~in~~ with selecting a design, designer, or design concept. The design review group must include:

(a) the applicant;

(b) two board members~~,~~;

(c) ~~board staff,~~ two or three architectural advisers~~,~~;

(d) one person appointed by the commissioner of the Department of Administration;

(e) a representative from the Minnesota Historical Society staff~~,~~;

(f) two professionals appointed by the board that are experienced in the fields of visual art, public art, art history, architecture, or history;

(g) two members of the public appointed by the board;

(h) up to five additional committee members appointed by the board as needed for professional expertise; and

(i) ~~designers, Department of Administration staff, the applicant, and any other members that the board determines necessary to help the board select a designer or a design concept~~ board staff to oversee and support the committee's work.

(2) The design review group must review the design proposals, designer applications, or design concept applications and vote for a design, designer, or design concept to recommend to the board.

(3) After considering the design review group's ~~vote,~~ recommendation, the board must ~~review and~~ vote to approve ~~of~~ or reject the design review group's ~~process and decision to ensure that the design review group followed the procedures in The Handbook of Architectural Design Competitions, which is incorporated by reference, is not subject to frequent change, and is available on the American Institute of Architects website~~ recommendation. A majority vote of the board is required to accept a design, designer, or design concept.

~~I.~~ L. Upon selection of a designer and design concept by the design review group ~~and~~ but before design and construction begin, the applicant must deposit with the Department of Administration enough money to complete the project as designed and an amount equal to 20 percent of the total estimated construction costs to cover the cost of operation, repairs, and maintenance of the work over time. Board staff ~~are~~ shall be available to ~~offer funding advice and~~ provide testimony to the legislature under Minnesota Statutes, section 15B.21, subdivision 3, but ~~must~~ shall not ~~directly~~ raise money for the applicant.

~~J.~~ M. After ~~funding is provided, board staff and advisers, a designer or an artist, an applicant committee,~~ project costs are deposited with the Department of Administration

as required under this subpart, board staff and advisers, a designer or artist, an applicant committee, and a Department of Administration project manager must form a working group to monitor the design framework and budget during the schematic design and design development phases. With guidance from the working group, the selected designer must enter into a contract with the Department of Administration that includes a project timeline and budget.

~~K.~~ N. The selected designer must proceed with the schematic design and design development phases of the design process with regular working group reviews. ~~After receiving approval by the executive secretary of the schematic~~ The board must approve the project's design framework, final schematic design, and design development ~~phases, the project must~~. The final schematic design must comply with the project's design framework, the Comprehensive Plan for the Minnesota Capitol Area, and all parts of this rule. After board approval of the final schematic design and design development, the project may proceed with construction documents and bidding under the guidance of the ~~working group. The board must issue the final approval of bid documents to comply with the Capitol mall design framework in the Comprehensive Plan for the Minnesota Capitol Area and parts 2400.2040 and 2400.2703.~~ Department of Administration. The board executive secretary is authorized to review construction documents for consistency with the schematic design and design development that have been approved by the board.

Subp. 4. **Criteria for determining location of new artwork.** The board must use the following criteria to evaluate the proposed location for a commemorative artwork in the Capitol area:

A. The site of the proposed location must be visible to people nearby and accessible to all members of the public.

B. The scale of the artwork must fit the artwork's location, providing familiarity to the viewer while not being overpowering. The artwork's size must not detract from the

Capitol. The board must consider the artwork's visual and spatial relationships to the artwork's surroundings.

C. The use of the site must not interfere with any existing artwork.

D. The use of the site must maintain and protect existing open space and the space's public use.

E. The location must follow all applicable zoning, environmental, code, and public safety rules and regulations.

F. The artwork must fit within the thematic organization of the Capitol grounds and ~~the Capitol mall design framework in~~ comply with the design objectives of the Comprehensive Plan for the Minnesota Capitol Area, which is incorporated by reference in subpart 3, item ~~G~~ J. The board must consider the site's relationship to other artwork and the Capitol.

Subp. 5. **Criteria for design of new or modified artwork.** The board must use the following criteria to evaluate and guide the design of a proposed new or modified commemorative artwork:

A. The artwork must encourage engagement with the public and provide amenities such as seating.

B. The design and setting of an artwork must consider climatic elements like sunlight, shade, wind, and the varied Minnesota seasons.

C. An artwork must seek to enhance the beauty of the Capitol area, while respecting the State Capitol's art and architecture. An artwork must embrace a design scheme that complements the Capitol area's historic features.

D. An artwork's illumination must not compete with or distract from the sight of the Capitol. If an artwork uses evening illumination, the artwork must integrate the illumination into the artwork's design and not obstruct the view of other artwork.

E. The landscape design of an artwork must incorporate hardy, low-maintenance plantings that are not prone to overgrowth.

F. The intended message of the artwork must be clear and understandable. The artwork must convey a meaning of enduring value for future generations. The artwork may incorporate signage.

G. Materials for the artwork must be visible to people nearby, durable, and compatible with the artwork's setting. To address durability concerns, the board must give preference to an artwork made of bronze over stainless steel. The board must give preference to an artwork using stone, such as granite or limestone, for key features, vertical elements, flooring, and surfaces. If an artwork uses concrete, the board must consider the artwork's color, texture, scoring, aggregate, and density. An artwork must not include metal seating that could cause burns. ~~If water features and in-ground lighting are included in an artwork, an applicant must deposit money into a maintenance and operating fund that is at least 20 percent of construction costs.~~

H. The proposed artwork must not interfere with any existing artwork. Any element of the artwork other than trees must not exceed 20 feet in height.

I. The size of the artwork must reflect the artwork's importance and adhere to the ~~Capitol mall~~ design ~~framework~~ objectives in the Comprehensive Plan for the Minnesota Capitol Area, which is incorporated by reference in subpart 3, item ~~G~~ J. Due to the limited open space on the Capitol grounds, the board must give preference to smaller commemorative artwork.

J. A freestanding artwork must affect the space in which the artwork stands. The size of the surrounding spatial envelope must be compatible with the scale of the artwork.

K. The artwork's design, construction, materials sourcing, and maintenance must conserve energy and water resources.

L. The design and placement of an artwork must consider contextual issues, such as the artwork's orientation and background. The artwork's height and scale must be appropriate to the artwork's location on the Capitol mall.

Subp. 6. **Conditions for modification or removal of an existing artwork.** The board must consider requests for the modification or removal of an existing commemorative artwork if one or more of the following conditions apply:

A. there has been sustained, ~~overwhelming~~ broad-based, and documented public objection to the artwork;

B. the artwork ~~does not meet~~ conflicts with the guiding principles ~~or violates parts 2400.2040 and 2400.2703~~ in subpart 1, item A;

C. the artwork has faults in construction or requires maintenance such that the Department of Administration is unable to properly care for or store the artwork;

D. the site for the artwork is no longer safely accessible to the public or is due to be demolished; or

E. significant changes in the use, character, or design of the site require a re-evaluation of the relationship of the artwork to the site.

Subp. 7. **Application and review process for modification or removal of an existing artwork.**

A. An applicant requesting the modification or removal of a commemorative artwork in the Capitol area must submit a modification or removal request to the board

using the application form available on the board website. The board website must ~~also~~ provide clear and accessible instructions for completing the application form. ~~When board staff receive a modification or removal request~~ Within ten calendar days of the board's receipt of the application, board staff must ~~provide written confirmation of receipt to the applicant.~~ determine whether the application is complete and inform the applicant of the determination. If the application is incomplete, board staff must ~~not process incomplete applications and must notify~~ advise the applicant ~~if~~ that the application is incomplete and identify what information is missing to the applicant.

B. Once board staff determine that an application is complete, board staff must ~~determine if~~ review the modification or removal request and analyze whether the request meets one or more of the conditions in subpart 6. Board staff must prepare a written report of the staff's findings.

C. Board staff must post a summary of the modification or removal request and the staff report on the board website. The posting shall include timely updates about the application's status, opportunities for public input, and meetings of the board at which the application shall be discussed or voted upon.

D. After the staff report is posted on the board website, the board must open a 30-day public comment period and direct board staff to host or cohost at least one public meeting to gather input on whether the modification or removal request meets one or more of the conditions in subpart 6. The public meeting may be hosted, organized, and managed according to subpart 10.

E. When the 30-day public comment period and public meeting are complete, board staff shall prepare a written summary of the public comments that the board received and provide a recommendation to the board on whether to accept the application and proceed to the next step in the review process or reject the application for failing to meet one of more of the conditions in subpart 6. The board shall then meet and host a public hearing to

invite additional public comments and consider the modification or removal request, staff report and recommendation, and public comments that the board received before and during the public hearing. After considering all public comments, the board shall vote on whether the modification or removal request meets one or more of the conditions in subpart 6 and may advance for further review. A majority vote of the full board is required to accept the application and advance the application for further review.

(1) If the board accepts an application for a modification or removal request ~~meets one or more conditions in subpart 6~~, board staff must notify the applicant ~~that the application has been accepted.~~ and the Department of Administration within 14 calendar days ~~of completing the review of an application for modification or removal of an existing artwork, board staff must notify the Department of Administration of the modification or removal request and post a proposal summary on the board website~~ of the board's vote accepting the application for further review.

(2) If the board rejects an application for a modification or removal ~~request does not~~ for failing to meet ~~any~~ one or more of the conditions in subpart 6, board staff must notify the applicant ~~that the board rejected the application~~ in writing within 14 calendar days of the board's vote rejecting the application and provide the applicant with the reasons for the rejection.

~~C.~~ F. ~~If the board executive secretary receives a complete request form and determines that the request meets one or more conditions in subpart 6 for modification or removal~~ After the board accepts an application requesting modification or removal of an artwork for further review, the board ~~executive secretary~~ must convene a ~~select~~ commemorative artwork review committee ~~that includes~~ to review the artwork identified in the modification or removal request and the applicant's proposed plan for modification or removal. The commemorative artwork review committee must include the following members ~~appointed by the chair of the board~~:

(1) one board member;

(2) one architectural adviser;

(3) one person appointed by the commissioner of the Department of Administration to represent the agency;

(4) a representative from the Minnesota Historical Society;

~~(4)~~ (5) two professionals appointed by the board experienced in the fields of visual art, public art, art history, architecture, or history. One of the professionals must have knowledge of artwork conservation;

(6) two members of the public appointed by the board;

~~(5)~~ (7) up to five additional committee members appointed by the board as needed for ~~technical~~ professional expertise ~~or to represent the public interest~~; and

~~(6)~~ (8) board staff that oversee and support the committee's work.

~~D.~~ G. The commemorative artwork review committee must open a 30-day public comment period and hold at least one public meeting hosted or cohosted by board staff to gather ~~public~~ additional input regarding ~~a~~ the proposed modification or removal~~. The committee may also decide to hold additional public meetings or gather community input using other methods. If the applicant is no longer available, the committee must give timely notice of the public meeting to an individual or a group that shares the applicant's values or is able to represent the applicant's perspective. At least ten days in advance of the public hearing, the committee must give notice of the hearing to the applicant requesting modification or removal of the artwork. The committee must give both applicants the opportunity to testify at the public hearing.~~ request, design or disposition plans for the artwork, and any restoration of the removal or modification site identified by the Department of Administration in item H, subitem (6), to determine if the request satisfies the criteria for modification in subparts 5 and 8 or the criteria for removal in subpart 9. The committee

must give timely written notice of the public meeting to the applicant requesting modification or removal of the artwork and to the artist or original sponsor of the artwork unless the committee is unable to notify the artist or original sponsor. If the committee is unable to notify the artist or original sponsor, the committee must notify a representative of the artist or original sponsor of the subject artwork as long as the board is able to reasonably identify a representative of the artist or original sponsor. The committee must provide the applicant, the artist, the original sponsor, and any representative of the artist or original sponsor the opportunity to speak at a public meeting of the commemorative artwork review committee.

~~E.~~ H. Prior to a public meeting of the commemorative artwork review committee, the board executive secretary must prepare and post on the board website a commemorative artwork background report that includes:

(1) a written description and images of the artwork that is the subject of the modification or removal request, information about and images of the artwork's ~~site~~ location, and a warranty of the originality of the artwork;

(2) the origin, derivation, history, and past ownership of the artwork; the original acquisition method and purchase price; and the original intent of the artwork by the artist or organization that advanced the artwork; ~~and evidence of public debate, if applicable;~~

(3) a summary of the proposed modification or removal~~; and~~ request and the applicant's stated reasons therefore; the primary concept and design elements of the modified or removed artwork and of the surrounding site; and in the case of a modification request, a recommendation on whether a designer or design consultant is needed to prepare a detailed plan of the modification;

(4) an analysis of ~~the reasons for the proposed modification or removal and~~ the proposal's potential impact on the Capitol's commemorative artwork collection~~.~~;

(5) a recitation of the criteria for modification in subparts 5 and 8 or for removal in subpart 9 that the board must use in reaching a decision to grant or deny a modification or removal request;

(6) a memorandum from the Department of Administration on implementation considerations of the proposed modification or removal plans and any restoration of the removal or modification site pursuant to Minnesota Statutes, section 15B.15, subdivision 2, paragraph (a); and

(7) a memorandum from the Minnesota Historical Society evaluating the impact of the proposed modification or removal on the historic context and resources of the Capitol grounds and the State Capitol building pursuant to Minnesota Statutes, section 15B.34, clause (3).

~~F.~~ I. Board staff must provide the commemorative artwork background report to the commemorative artwork review committee ~~for review~~ prior to the committee's public meeting and may present the report ~~to the public in a public hearing~~ at the committee's public meeting. Each committee member must present the committee member's views and participate in the discussion during the public meeting. The committee ~~must~~ shall vote and make ~~the committee's~~ a written recommendation to the full board ~~for a final decision. The board must determine if an additional 30-day comment period and second public hearing are necessary to gather further input. Upon making the final decision concerning the request, the board must send a written copy of the board's decision to the applicant.~~ on whether the board should grant or deny the modification request based on the criteria in subparts 5 and 8, or grant or deny the removal request based on the criteria in subpart 9. A committee recommendation to grant a modification request must include a recommendation on whether additional design work or a designer is needed to prepare a detailed modification plan. A majority vote of the committee is required for the committee to recommend granting the modification or removal request.

~~G.~~ J. Along with the committee's recommendation to the board, the board executive secretary must prepare for the board and post to the board website a report that includes:

(1) a summary of ~~feedback~~ the public comments received ~~from~~ at the public ~~hearing~~ meetings and hearings and any additional ~~input gathered using other methods~~ information obtained during the application review process;

(2) opinions gathered from committee experts or other independent professionals, such as conservators, engineers, architects, critics, and safety experts who are professionally qualified to comment on the artwork and on the concern prompting review~~;~~ ~~and~~ that are obtained during the application review process;

(3) an evaluation of the need for additional design work and the need for forming a design review group and using the selection process under subpart 3, item K; and

~~(3)~~ (4) a detailed budget for all aspects of the modification or removal request, and the applicant's stated options for funding the request~~, and a recommendation on who should be responsible for funding the request~~.

K. After receiving the committee's recommendation and staff final report, the board must determine if another 30-day public comment period or public hearing is necessary to gather additional input. If the board determines that another opportunity for public comment or a public hearing is necessary, then the board shall make a final decision after the additional public comment period or public hearing is complete. If the board determines that no additional comment period or public hearing is needed, the board shall proceed to reach a decision by holding a public meeting at which the board shall vote to grant or deny the request for the modification or removal. The board must apply the criteria in subparts 5 and 8 when considering whether to grant or deny a request for modification. The board must apply the criteria in subpart 9 when considering whether to grant or deny a request for removal. A majority vote of the full board is required to grant a request for modification or removal of an existing commemorative artwork. If the board grants a modification request

and decides that additional design work is necessary according to subpart 3, item K, the board shall reconvene for final design review and approval as described in subpart 3, item N. After making a decision concerning the request for modification or removal, the board must send a written copy of the board's decision to the applicant and the artist and original sponsor of the artwork at issue or their representatives as provided in item G.

~~H.~~ L. If the board ~~approves the application~~ grants a request for modification or removal ~~and~~, but before implementation of the project begins, the applicant must ~~demonstrate that funding for the project,~~ deposit with the Department of Administration enough money to complete the modification or removal consistent with the estimated budget, including any costs for restoration of the removal or modification site identified by the Department of Administration in item H, subitem (6), or demonstrate that funding for the full project is committed. Board staff ~~are~~ shall be available to ~~offer funding advice and~~ provide testimony to the legislature but ~~may~~ shall not directly raise money to fund the project.

~~I.~~ M. If the board ~~approves the~~ grants a request to modify an existing commemorative artwork~~, the board must work with the Department of Administration pursuant to Minnesota Statutes, section 15B.15, subdivision 2, paragraph (a), and the Minnesota Historical Society pursuant to Minnesota Statutes, section 15B.34, clause (3), to initiate a request for qualification or request for proposal process to select a design.~~ on the Capitol grounds and approves of the final schematic design and design development, the project shall proceed with construction documents and bidding under the Department of Administration. Board staff and architectural advisers, a designer if applicable, and a Department of Administration project manager must form a working group to monitor implementation of the modification work. The board executive secretary is authorized to review construction documents for consistency with the schematic design and design development approved by the board. A designer, if involved, must enter into a contract with the Department of Administration that includes a project timeline and budget.

~~J.~~ N. If the board ~~approves of the~~ grants a request for the removal of ~~an~~ a commemorative artwork~~,~~ on Capitol grounds, the removal must proceed in accordance with the disposition plan described in the request. The Minnesota Historical Society must determine the final disposition of the artwork pursuant to Minnesota Statutes, section 138.68. The Minnesota Historical Society reserves the first right of refusal for removed artwork of historic value. If the Minnesota Historical Society does not accept the artwork, the artwork's disposition must be determined according to Minnesota Statutes, section 138.68. The disposition work must proceed with construction documents and bidding under the Department of Administration.

Subp. 8. **Criteria for modification of an existing artwork.** The board must ~~use~~ consider and apply the ~~following~~ criteria in items A to N to evaluate ~~requests~~ a request for the modification of ~~a~~ an existing commemorative artwork:

A. the proposed modification ~~must make~~ makes the artwork more welcoming and engaging to nearby and statewide communities~~. The applicant, with the support of board staff, must involve nearby and statewide communities in the conceptualization and development of the proposed modification.~~;

B. the proposed modification ~~must embrace~~ embraces historical ~~complexity and create space for~~ facts and fosters a productive range of responses, conversations, and interpretations~~.~~;

C. the proposed modification ~~must consider~~ considers the social and cultural conditions at the time of the artwork's addition~~.~~;

D. the proposed modification ~~must prompt~~ prompts reflection, conversation, and awareness of the stories, perspectives, and experiences of historically marginalized or oppressed communities~~.~~;

E. the proposed modification ~~must incorporate~~ incorporates the views of all interested groups and individuals and ~~consider~~ considers the relationship of these groups' collective history, heritage, and values to the artwork~~.~~;

F. the proposed modification ~~must create~~ creates an opportunity to increase public understanding of and dialogue about Minnesota's history~~.~~;

G. the proposed modification ~~must enhance~~ enhances the artwork's function as a source of collective identity and belonging for all Minnesotans~~.~~;

H. the proposed modification ~~must generate, contribute~~ generates, contributes to, or ~~enhance~~ enhances existing social activity in the surrounding public space~~.~~;

~~H.~~ I. the proposed modification ~~must represent~~ represents or ~~commemorate~~ commemorates a significant event, group, or individual in Minnesota's history~~.~~;

~~I.~~ J. the proposed modification ~~must respect~~ respects the contributions and perspectives of the artwork's creators and the group or individuals depicted in the artwork and the group's or individuals' communities~~.~~;

~~J.~~ K. the proposed modification ~~must seek~~ seeks to achieve peace, reconciliation, truth, and justice for individuals, groups, and communities that are not represented or who are misrepresented in the historical record~~.~~;

~~K.~~ L. the proposed modification ~~must acknowledge~~ acknowledges evolving social values and ~~account~~ accounts for the views and needs of the contemporary community~~.~~;

M. the proposed modification meets the criteria of subpart 5; and

N. funding is available to pay for the proposed modification and any restoration of the modification site identified by the Department of Administration in subpart 7, item H, subitem (6).

Subp. 9. **Criteria for evaluating removal of an existing commemorative artwork.** The board must ~~use the following~~ consider and apply criteria in items A to M to evaluate a request for the removal of an existing commemorative artwork:

A. community feedback about the artwork, the artwork's site, and the artwork's condition collected at public meetings and hearings;

B. the degree to which the artwork misrepresents the state's history or has the effect of significantly intimidating or adversely affecting a group of people;

C. the method by which the artwork was acquired and accessioned in the commemorative artwork collection, such as by donation, loan, or commission;

D. the qualifications and professional reputation of the artist, and the artwork's craftsmanship, conceptual content, style, and form;

E. the availability of necessary funding for conservation, maintenance, and repair of the artwork if the artwork remains in its current location; the availability of exhibition and storage space for relocating the artwork if the artwork is removed; ~~real property for siting~~ and the disposition of the artwork~~; and staff support~~ in accordance with Minnesota Statutes, section 138.68;

F. the degree to which removal of the artwork would detract from the overall artistic and architectural integrity of the Capitol or Capitol area;

G. the artwork's style, form, scale, diversity, quantity, quality, longevity, and compatibility with the existing commemorative artwork collection~~, and goals of the board~~;

H. accessibility, public safety, and the social, cultural, historical, ecological, physical, and functional context of the artwork in relation to the site, both existing and planned;

I. issues related to liability, insurance, intellectual property rights, warranties, ownership, theft, vandalism, loss, indemnification, and public safety;

J. safety, the avoidance of emergencies caused by hazards, ~~relevant~~ and construction schedules~~, and the allowance of enough time for a review process~~; ~~and~~

K. the value of the artwork as determined by a professional appraiser~~.~~;

L. the plan for returning the space left by removal of the artwork to the space's original condition or a condition that is aesthetically consistent with the surrounding Capitol grounds; and

M. the availability of funding to pay for the removal and any restoration of the removal site identified by the Department of Administration in subpart 7, item H, subitem (6).

Subp. 10. **Public hearing and public meeting requirements.**

A. At least 30 days before a public hearing date under subpart 3 or 7, the board must:

(1) post a notice of the public hearing on the board website;

(2) mail a notice of the public hearing to the applicant; and

(3) mail a notice of the public hearing to any other party requiring notice under this part.

B. Public meetings held under this part must comply with Minnesota Statutes, chapter 13D.

C. The host for a public meeting under this part may be the board or any public, private, nonprofit, or community entity.

D. The organization and management of a public meeting under this part shall be determined by the host in collaboration with board staff.

2400.2705 STANDARDS FOR CIVIC AND INSTITUTIONAL USES.

Subpart 1. **Monuments, memorials, and commemorative artwork.** Monuments, memorials, and commemorative artwork structures must be approved for placement, modification, or removal according to part 2400.2703 and Minnesota Statutes, section 15B.05, subdivision 3.

[For text of subparts 2 and 3, see Minnesota Rules]

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