



Capitol Area Architectural and Planning Board

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Date: November 10, 2021 *(for November 18, 2021 Board meeting)*
To: The Capitol Area Architectural and Planning Board (CAAPB)
From: Merritt Clapp-Smith, CAAPB Executive Secretary
Subject: ***Update on Rulemaking process for Commemorative Works***

Commemorative Works Rulemaking

Any updates to MN Rules 2400.2705 on Commemorative Works must occur through the state's Rulemaking process. Rulemaking in Minnesota follows procedures prescribed in the [Minnesota Administrative Procedure Act \(APA\), Minnesota Statutes, chapter 14](#). The process of rulemaking can vary in a couple of ways, depending on the nature of the rules being reviewed. In this case, the process must follow those for 'Rules Adopted After Public Hearing'.

Commemorative Works Review by the CAAP Board

The Board will consider and review amendments to the Commemorative Works rules over the span of at least five (5) meetings:

September 28, 2021 CAAPB Meeting – Overview of task force work

Dr. Westerman and Carl Crawford will provide an overview and status update of their task forces and the work they covered. They will share highlights of what they heard and discussed, and how that can inform future consideration of Commemorative Works. There will be time for questions following their overviews.

November 18, 2021 CAAPB Meeting – Engagement Results report; Proposed Amendments to Commemorative Works rules

**We are
here**

Review final reports from Public Engagement Task Force and Decision Process Advisory Task Force. Review proposed amendments to the Commemorative Works rules. Public comments on the Commemorative Works policy, gathered in the previous month, will be shared.

December 1, 2021 CAAPB Meeting – Proposed Amendments to Commemorative Works rules

Update on public comments, input from Board members and staff, and recommended revisions from the MN Revisor.

January 18, 2022 CAAPB Meeting – Public Hearing on Proposed Amendments to Commemorative Works rules

The Board will host a public hearing on the proposed rule changes. The hearing (which will be either completely virtual or a hybrid of virtual and in-person) will be attended by the assigned Administration Law Judge and must follow some prescribed procedures for rulemaking hearings.

Subsequent 2022 CAAPB Meeting – Board reviews Administrative Law Judge recommendation on the proposed Amendments to Commemorative Works rules and votes on a set of rules

The Board is encouraged, but not required, to follow the recommended decision of the Administrative Law Judge. The recommendation will include findings of fact and conclusions of law.

Based on the prescribed rulemaking steps, CAAPB staff recommend the following steps for rulemaking on Commemorative Works:

RULEMAKING STEPS	EARLIEST POSSIBLE TIME PERIODS	STATUS
Register for rulemaking with Revisor	August 2021	Complete
Request docket #, which assigns an Administrative Law Judge (ALJ)	September 2021	Complete
Schedule hearing date with Admin Law Judge	September 2021	Complete
CAAPB Meeting – Overview of Task Force work and status updates	September 28, 2021	Complete
Open 60-day “Request for Comments” period (required at least 90 days before public hearing)	October 18, 2021 to December 17, 2021	Complete
Prepare Statement of Need and Reasonableness (SONAR)	November 2021	
CAAPB Meeting – Review and discuss proposed rules	November 18, 2021	
CAAPB staff revise and finalize proposed rules, based on: public comment; input from Board members; and recommendations from the MN Revisor regarding how to write rules language	November/December 2021	
Publish “Notice of Intent to Adopt” and the proposed rules, for the 30-day formal comment proceeding the public hearing	December 18, 2021 to January 18, 2022	
CAAPB Public Hearing; ALJ attending	January 18, 2022	
Continue public comment period for up to 20 days	End by Feb 8, 2022	
Admin Law Judge (ALJ) reviews all material and prepares recommendation to the CAAPB	February/March 2022	
CAAPB Meeting – Board considers ALJ recommendation and votes on rules for adoption	TBD – pending timeline and outcome of recommendation	
Adoption of amended rules into MN State Statute	TBD – after CAAPB vote	
Applications for Commemorative Works can be accepted if they meet the criteria of the amended rules.	TBD – following completion of CAAPB vote	

**Schedule above is subject to change based on decisions of the Board regarding when to proceed with certain rulemaking steps, or subject to unforeseen administrative delays in the rulemaking steps.*