

1.1 **Capitol Area Architectural and Planning Board**

1.2 **Proposed Permanent Rules Regulating Capitol Area Commemorative Works**

1.3 **2400.2040 DEFINITIONS.**

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

1.5 Subp. 3a. **Addition request.** "Addition request" means the application form that an
1.6 applicant submits to the board formally requesting the addition of a new work and describing
1.7 reasons why the applicant believes that the work should be added.

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

1.9 Subp. 8a. **Applicant.** "Applicant" means a person who submits an application for
1.10 addition, modification, or removal of a work.

1.11 Subp. 8b. **Architectural advisors.** "Architectural advisors" means the committee
1.12 established under part 2400.2706 that is responsible for advising the board on all architectural
1.13 and planning matters.

1.14 *[For text of subparts 9 to 14, see Minnesota Rules]*

1.15 Subp. 15. **Board.** "Board" means the Capitol Area Architectural and Planning Board
1.16 as created by Minnesota Statutes, section 15B.03, subdivision 1. The board is the 12-member
1.17 body responsible for making long-term planning and zoning decisions in the Capitol area
1.18 and making decisions about changes or improvements in the Capitol area and on the Capitol
1.19 mall.

1.20 *[For text of subparts 16 to 19, see Minnesota Rules]*

1.21 Subp. 19a. **Board staff.** "Board staff" means officers and employees, led by the
1.22 executive secretary who is selected by the board, who execute the decisions of the board.

1.23 Subp. 19b. **Capitol grounds.** "Capitol grounds" means the exterior areas of any
1.24 state-owned land in the Capitol area including the rights-of-way, the entirety of the Capitol

2.1 mall, and the exterior courtyards and public lobbies of state-owned buildings, other than
2.2 the Capitol itself.

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

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

2.12 A. to memorialize and remember;

2.13 B. to inform and inspire the viewer;

2.14 C. to have lasting historic and cultural significance; and

2.15 D. to accentuate and enhance the urban landscape.

2.16 Commemorative artwork may be permanent or temporary. Any commemorative artwork
2.17 on display for less than a week is not within the scope of this subpart.

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

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

2.21 Subp. 24b. **Design process.** "Design process" means the process that the board follows
2.22 after the board approves a request for the addition of a new commemorative artwork to the
2.23 Capitol grounds, a jury picks a designer, and money is raised for the design and
2.24 implementation. Design process includes:

- 3.1 A. schematic design: the description of the overall design concept for a work;
- 3.2 B. design development: a refined version of the schematic design with scaled
- 3.3 drawings showing the architectural and site plan details and list of materials;
- 3.4 C. construction documents: the instructions for contractors to build the work; and
- 3.5 D. bidding: the search for a contractor to execute the work, based on price and
- 3.6 qualifications.

3.7 Subp. 24c. **Designer.** "Designer" means a person generally recognized by the public,

3.8 peers, and critics as the lead practitioner in the creative vision and design development of

3.9 a work. Designer includes architects, landscape architects, or engineers. In most cases, a

3.10 designer is required to sign construction documents.

3.11 *[For text of subpart 25, see Minnesota Rules]*

3.12 Subp. 25a. **Disposition.** "Disposition" means the termination of ownership and

3.13 possession of a work from the public collection through sale, donation, or demolition.

3.14 *[For text of subparts 26 to 40, see Minnesota Rules]*

3.15 Subp. 40a. **In the public interest.** "In the public interest" means that a work or

3.16 modification of a work positively affects the rights, health, well-being, or finances of all

3.17 Minnesotans.

3.18 *[For text of subpart 41, see Minnesota Rules]*

3.19 Subp. 41a. **Lifespan.** "Lifespan" means the time that a work is displayed in the Capitol

3.20 area, which is:

- 3.21 A. event-based: when a work is displayed in the Capitol area one to 14 days;
- 3.22 B. temporary: when a work is displayed in the Capitol area 15 days to one year;
- 3.23 or

4.1 C. permanent or site-integrated: when a work is displayed in the Capitol area more
4.2 than one year as part of a site or structure that must not be removed.

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

4.4 Subp. 50a. **Modification.** "Modification" means a process that changes the meaning,
4.5 character, or interpretation of a work. Modification includes:

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

4.8 B. structural modification: the addition, removal, or alteration of any physical
4.9 aspect of a work; or

4.10 C. recontextualization: the addition of interpretive material to a work, such as
4.11 additional signage.

4.12 Subp. 50b. **Modification request.** "Modification request" means an application form
4.13 that an applicant submits to the board regarding a specific work, describing reasons why
4.14 the applicant is requesting to modify or relocate the work and formally requesting
4.15 modification of the work.

4.16 *[For text of subparts 51 to 65, see Minnesota Rules]*

4.17 Subp. 65a. **Removal.** "Removal" means the deliberative process and decision to
4.18 remove a work from the public collection.

4.19 Subp. 65b. **Removal request.** "Removal request" means an application form that an
4.20 applicant submits to the board regarding a specific work, describing reasons why the applicant
4.21 is requesting to remove the work and formally requesting removal of the work.

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

4.23 Subp. 69a. **Spatial envelope.** "Spatial envelope" means the shared, multidimensional
4.24 space surrounding a work.

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

5.2 **2400.2705 STANDARDS FOR CIVIC AND INSTITUTIONAL USES.**

5.3 Subpart 1. **Monuments, memorials, and commemorative works.** Monuments,
5.4 memorials, and commemorative works structures must be approved for placement ~~under,~~
5.5 modification, or removal according to part 2400.2707 and Minnesota Statutes, section
5.6 15B.05, subdivision 3.

5.7 ~~A. All commemorative works for the Capitol area must meet the following~~
5.8 ~~objectives:~~

5.9 ~~(1) to preserve the integrity of the Capitol area;~~

5.10 ~~(2) to ensure that such works are appropriately designed, constructed, and~~
5.11 ~~located;~~

5.12 ~~(3) to maintain the dignity of existing memorials;~~

5.13 ~~(4) to ensure that the subject is of lasting significance to the people of the~~
5.14 ~~state;~~

5.15 ~~(5) to reflect the diversity of the state's people and culture, yet not be partisan~~
5.16 ~~in nature; and~~

5.17 ~~(6) to provide an enriching experience that illuminates underlying values and~~
5.18 ~~broadens understanding of the state's heritage and culture.~~

5.19 ~~B. The commemorative work must be consistent with and meet the conditions of~~
5.20 ~~the following board documents:~~

5.21 ~~(1) Comprehensive Plan for the State Capitol Area, 1998, as amended in~~
5.22 ~~2009;~~

6.1 ~~(2) Specific Actions for Implementation of the Comprehensive Plan for the~~
6.2 ~~State Capitol Area, February 1998; and~~

6.3 ~~(3) Commemorative Works in the Capitol Area: A Framework for Initiation,~~
6.4 ~~Evaluation and Implementations of Commemorative Works in the Capitol Area, May 1993.~~

6.5 ~~These documents are incorporated by reference and are available at the board's office~~
6.6 ~~and website and the State Law Library. They are not subject to frequent change.~~

6.7 Subp. 2. [See repealer.]

6.8 Subp. 3. [See repealer.]

6.9 **2400.2706 ARCHITECTURAL ADVISORS COMMITTEE.**

6.10 Subpart 1. **Committee members.** The architectural advisors committee is comprised
6.11 of three members who are appointed as follows:

6.12 A. one member appointed by the Minnesota State Arts Board;

6.13 B. one member appointed by the board; and

6.14 C. one member appointed by the Minnesota Society of the American Institute of
6.15 Architects.

6.16 Subp. 2. **Length of term.** Each committee member serves a four-year term.

6.17 **2400.2707 STANDARDS FOR MONUMENTS, MEMORIALS, AND**
6.18 **COMMEMORATIVE WORKS.**

6.19 Subpart 1. **Principles, conditions, and criteria.**

6.20 A. **Commemorative artwork must meet the following guiding principles:**

6.21 (1) **Commemorative artwork on the Capitol grounds must reflect the state's**
6.22 **diverse history and people.**

6.23 (2) **The board must:**

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

7.3 (b) consider the historic, architectural, and artistic integrity of the Capitol
7.4 building; and

7.5 (c) review existing commemorative artwork every ten years to ensure
7.6 that the artwork meets the standards and intent of these rules.

7.7 (3) All decisions about commemorative artwork must account for the historic,
7.8 architectural, and artistic integrity of the Capitol building.

7.9 B. The board shall consider displaying new commemorative artwork in the Capitol
7.10 area if the artwork meets all of the following conditions:

7.11 (1) there has been documented public support of the work;

7.12 (2) the work has lasting statewide significance for Minnesotans;

7.13 (3) the work is respectful of the diversity of Minnesotans;

7.14 (4) viewing the work provides a rich experience to broaden the understanding
7.15 of Minnesota's shared history, heritage, and culture; and

7.16 (5) if the subject of the work is an individual, the individual must be a
7.17 Minnesotan with a historical impact who is widely recognized and admired by Minnesotans,
7.18 and who has been deceased for at least ten years.

7.19 C. Applicants, designers, the board, and board staff must follow these steps when
7.20 considering the addition of a new commemorative artwork:

7.21 (1) The applicant requesting placement of a commemorative artwork in the
7.22 Capitol area must submit the application form available on the board website. The board
7.23 must also provide clear and accessible instructions for completing the form. When board
7.24 staff receive a completed addition of a commemorative artwork request form, board staff

8.1 must provide written confirmation of receipt to the applicant. Board staff must not process
8.2 incomplete applications and must notify an applicant if the application is incomplete.

8.3 (2) Board staff must determine if an addition request meets the conditions
8.4 specified in item B.

8.5 (a) If the addition request meets all of the conditions in item B, board
8.6 staff must notify the applicant that the board has accepted the application. Within 14 days
8.7 of application acceptance, board staff must notify the Department of Administration of the
8.8 addition request and post a proposal summary on the board website.

8.9 (b) If an application fails to meet all conditions in item B, board staff
8.10 must notify the applicant that the board has rejected the addition request and the reasons
8.11 for rejection. After the board has rejected an applicant's application, the applicant may
8.12 resubmit the application or request further review of the application by the full board.

8.13 (3) After accepting an application for an addition, board staff and architectural
8.14 advisors must conduct a site selection study with the applicant for the proposal. The
8.15 Department of Administration must review and comment on proposed sites where the board
8.16 is considering displaying the commemorative artwork. Board staff and architectural advisors
8.17 must recommend a site for the proposed work to the full board.

8.18 (4) After accepting an application for an addition, the board shall hold a public
8.19 hearing and must affirm through board vote that the proposal meets all of the conditions
8.20 under item B. The board must notify the applicant of the board's final decision.

8.21 (5) The applicant must raise money to pay for the cost of conducting a design
8.22 competition. This money covers the promotion, publicity, and awards or stipends for the
8.23 top three selected designs.

8.24 (6) The applicant must work with board staff and the architectural advisors
8.25 to develop a design framework document that includes:

- 9.1 (a) the goals and objectives of the applicant;
- 9.2 (b) the applicable zoning, design, and programmatic guidelines for the
9.3 selected site;
- 9.4 (c) the proposed budget, schedule, location, site-specific conditions, and
9.5 technical parameters;
- 9.6 (d) the plan for informing and engaging key stakeholders and members
9.7 of the public during the design competition; and
- 9.8 (e) additional competition guidelines including jury makeup, designer
9.9 qualifications, jury selection criteria, and submission requirements.
- 9.10 (7) In accordance with Minnesota Statutes, section 15B.21, subdivision 3,
9.11 the board may provide testimony to the legislature on any commemorative artwork proposal
9.12 in the Capitol area seeking legislative authorization or appropriation of funding. The applicant
9.13 may be asked to testify on behalf of their proposal. This testimony must address the proposal's
9.14 alignment with the Capitol mall design framework in the Comprehensive Plan for the
9.15 Minnesota Capitol Area, which is incorporated by reference, is not subject to frequent
9.16 change, and is available on the Capitol Area Architectural and Planning Board website,
9.17 <https://mn.gov/caapb/planning/>.
- 9.18 (8) Upon selection of a designer and design concept by the jury and before
9.19 design and construction begin, the applicant must deposit with the Department of
9.20 Administration enough money to complete the project as designed and an amount equal to
9.21 20 percent of the total estimated construction cost. Board staff are available to offer funding
9.22 advice and provide testimony to the legislature but may not directly raise money for the
9.23 applicant.
- 9.24 (9) After funding is complete, board staff and advisors, a designer or an artist,
9.25 an applicant committee, and a Department of Administration project manager shall form a

10.1 working group to monitor the design framework and budget through schematic design and
10.2 design development phases. With guidance from the working group, the selected designer
10.3 shall enter into a contract with the Department of Administration that includes a project
10.4 timeline and budget.

10.5 (10) The selected designer shall proceed with the schematic design and design
10.6 development phases with regular working group reviews. After approval by the executive
10.7 secretary of the schematic design and design development phases, the project shall proceed
10.8 with construction documents and bidding under guidance of the working group. The board
10.9 must issue final approval of bid documents for compliance with design framework and
10.10 *Zoning and Design Rules for the Minnesota State Capitol Area*, which is incorporated by
10.11 reference, is not subject to frequent change, and is available on the Capitol Area Architectural
10.12 and Planning Board website, <https://mn.gov/caapb/zoning/zoning-design.jsp>.

10.13 D. Using the design framework document, the board must initiate either an open
10.14 solicitation for design proposals or a request for qualification process to select a designer
10.15 or design concept through design competition. A jury must include board members, board
10.16 staff, architectural advisors, Minnesota Historical Society staff, designers, Department of
10.17 Administration staff, the applicant, and any other members that the board determines
10.18 necessary shall review the design options and vote on a design concept. The board shall
10.19 review and approve the jury's process and outcome for the design concept to ensure alignment
10.20 with the procedures outlined in the American Institute of Architects design competition
10.21 handbook, which is incorporated by reference.

10.22 E. The board must use the following criteria to evaluate the proposed location for
10.23 the commemorative artwork in the Capitol area:

10.24 (1) The site must be visible and accessible to all members of the public.

10.25 (2) The scale of the work must fit the work's location, providing familiarity
10.26 to the viewer while not being overpowering. The work's size must not detract from the

11.1 Capitol. The board must consider the work's visual and spatial relationships to the work's
11.2 surroundings.

11.3 (3) The use of the site must not interfere with any existing work.

11.4 (4) The use of the site must maintain and protect existing open space and the
11.5 space's public use.

11.6 (5) The location must follow any applicable zoning, environmental, code,
11.7 and public safety rules and regulations.

11.8 (6) The work must fit within the thematic organization of the Capitol grounds
11.9 and the Capitol mall design framework found in the Comprehensive Plan for the Minnesota
11.10 Capitol Area, which is incorporated by reference, is not subject to frequent change, and is
11.11 available on the Capitol Area Architectural and Planning Board website,
11.12 <https://mn.gov/caapb/planning/>. The board must consider the site's relationship to other
11.13 works and the Capitol.

11.14 F. The board must use the following criteria to evaluate and guide the design of
11.15 the proposed commemorative artwork:

11.16 (1) The work must encourage public engagement and provide amenities like
11.17 seating when appropriate.

11.18 (2) The design and setting of a work must consider climatic elements like
11.19 sunlight, shade, wind, and the varied Minnesota seasons.

11.20 (3) A work must seek to enhance the beauty of the Capitol area, while
11.21 respecting the State Capitol's art and architecture. To the extent possible, a work must
11.22 embrace a design scheme that is complementary of the Capitol area's historic features.

12.1 (4) A work's illumination must not compete with or distract from the sight
12.2 of the Capitol. Evening illumination, if used, must be integrated into the work's design and
12.3 not obstruct the view of other works.

12.4 (5) The landscape design of a work must incorporate hardy, low-maintenance
12.5 plantings that are not prone to overgrowth.

12.6 (6) The intended message of the work must be clear and understandable. The
12.7 work must convey a meaning of enduring value for future generations. The work may
12.8 incorporate signage.

12.9 (7) Materials for the work must be durable, visible, and compatible with the
12.10 work's setting. To address durability concerns, the board must give preference to works
12.11 made of bronze over stainless steel. The board must give preference to works using stone,
12.12 such as granite or limestone, for key features, vertical elements, flooring, and surfaces. If
12.13 a work uses concrete, the board must consider the work's color, texture, scoring, aggregate,
12.14 and density. The board prohibits a work from incorporating metal seating that could cause
12.15 burns. If water features and in-ground lighting are included in a work, the board requires
12.16 the applicant to deposit a maintenance and operating fund that is larger than the standard
12.17 20 percent of construction.

12.18 (8) The space surrounding a work must provide a compatible setting while
12.19 respecting the surrounding Capitol mall landscape design and intended public functions.
12.20 The proposed work must not interfere with any existing work. Any element of the work
12.21 other than trees must not exceed 20 feet in height.

12.22 (9) The size of the work must reflect the work's importance and adhere to the
12.23 Capitol mall design framework in the Comprehensive Plan for the Minnesota Capitol Area,
12.24 which is incorporated by reference, is not subject to frequent change, and is available on
12.25 the Capitol Area Architectural and Planning Board website, <https://mn.gov/caapb/planning/>.

13.1 Due to limited open space, the board must give preference to smaller commemorative
13.2 artwork.

13.3 (10) A freestanding work must affect the space in which the work stands.
13.4 The size of the surrounding spatial envelope must be compatible with the scale of the work.

13.5 (11) The work's design, construction, materials sourcing, and maintenance
13.6 must conserve energy and water resources.

13.7 (12) The design and placement of a work must consider contextual issues,
13.8 such as orientation and background. The work's height and scale must be appropriate to the
13.9 work's location on the Capitol mall.

13.10 G. The board shall consider requests for the modification or removal of an existing
13.11 commemorative artwork if one or more of the following conditions apply:

13.12 (1) there has been sustained, overwhelming, and documented public objection
13.13 to the work;

13.14 (2) the work does not meet the guiding principles or violates parts 2400.2040
13.15 to 2400.2707;

13.16 (3) the work has serious faults in construction or requires extreme maintenance
13.17 such that the Department of Administration is unable to properly care for or store the work;

13.18 (4) the site for the work is no longer safely accessible to the public or is due
13.19 to be demolished; or

13.20 (5) significant changes in the use, character, or design of the site require
13.21 re-evaluation of the relationship of the work to the site.

13.22 H. Every ten years, board staff shall gather public input on the commemorative
13.23 works collection and shall undertake a comprehensive review that applies the conditions
13.24 for consideration of a modification or removal request to the collection.

14.1 I. Applicants, designers, the board, and board staff must follow these steps when
14.2 considering the modification or removal of an existing commemorative artwork:

14.3 (1) The applicant requesting the modification or removal of a commemorative
14.4 artwork in the Capitol area must submit the application form available on the board website.
14.5 The board must also provide clear and accessible instructions for completing the form.
14.6 When board staff receive a modification or removal request, board staff must provide written
14.7 confirmation of receipt to the applicant. Board staff must not process incomplete applications
14.8 and must notify the applicant if the application is incomplete.

14.9 (2) Board staff must determine if the modification or removal request meets
14.10 the conditions specified in item F.

14.11 (a) If the modification or removal request meets one or more conditions
14.12 in item F, board staff must notify the applicant that the application has been accepted. Within
14.13 14 days of application completion, board staff must notify the Department of Administration
14.14 of the modification or removal request and post a proposal summary on the board website.

14.15 (b) If the modification or removal request does not meet any of the
14.16 conditions in item F, board staff must notify the applicant that the board rejected the
14.17 application and the reasons for the rejection. The applicant may resubmit or request further
14.18 review by the full board.

14.19 (3) If the board executive secretary receives a complete request form and
14.20 determines that the request meets one or more conditions in item F for modification or
14.21 removal, the board executive secretary must convene a select commemorative artwork
14.22 review committee that includes the following members appointed by the chair of the board:

14.23 (a) one board member;

14.24 (b) one member of the architectural advisors committee;

15.1 (c) one person appointed by the commissioner of the Department of
15.2 Administration to represent the agency;

15.3 (d) two professionals experienced in the fields of visual art, public art,
15.4 art history, architecture, or history. One of the professionals must have knowledge of artwork
15.5 conservation; and

15.6 (e) up to five additional committee members as needed for technical
15.7 expertise or to represent the public interest.

15.8 (4) The commemorative artwork review committee must open a 30-day
15.9 comment period and hold at least one public meeting to gather public input on a proposed
15.10 modification or removal. The committee may also decide to hold additional public meetings
15.11 or gather community input using other methods. If the applicant no longer exists, the
15.12 committee must give timely notice of this meeting to a member of the public who represents
15.13 the applicant's perspective. In addition, the committee must give timely notice to the applicant
15.14 requesting modification or removal of the work. The committee must give both applicants
15.15 the opportunity to testify at the public hearing.

15.16 (5) The board executive secretary must prepare and post to the board website
15.17 an information report that must include the following elements:

15.18 (a) a written description and images of the work, information about and
15.19 images of the work's site, and a warranty of originality of the work;

15.20 (b) the origin, derivation, history, and past ownership of the work; the
15.21 original acquisition method and purchase price; the original intent of the work by the artist
15.22 or organization that advanced the work; and evidence of public debate, if applicable;

15.23 (c) a summary of the proposed modification or removal; and

15.24 (d) an analysis of the reasons for the proposed modification or removal
15.25 and the proposal's impact on the collection.

16.1 (6) Board staff must provide the commemorative artwork background report
16.2 to the commemorative artwork review committee for review and present the report to the
16.3 public in a public hearing. Each committee member must present the committee member's
16.4 views and participate in the discussion. The committee must make the committee's
16.5 recommendation to the full board for a final decision. The board must determine if an
16.6 additional 30-day comment period and second public hearing are necessary to gather further
16.7 input. Upon final decision concerning the request, the board must send a written copy of
16.8 the decision to the applicant.

16.9 (7) The board executive secretary must prepare and post to the board website
16.10 a report that must include the following elements:

16.11 (a) a summary of feedback received from the public hearing and any
16.12 additional input gathered using other methods;

16.13 (b) a synthesis of opinions gathered from committee experts or other
16.14 independent professionals, such as conservators, engineers, architects, critics, and safety
16.15 experts who are qualified to comment on the work and on the concern prompting review;
16.16 and

16.17 (c) a detailed budget for all aspects of the modification or removal
16.18 request, options for funding the request, and a recommendation on who should be responsible
16.19 for funding the request.

16.20 (8) If the board approves the application, and before implementation begins,
16.21 the applicant must demonstrate that money for the project, consistent with the estimated
16.22 budget, is committed. Board staff are available to offer funding advice and provide testimony
16.23 to the legislature but may not directly raise money to fund the project.

17.1 (9) If the board decides to modify an existing work, the board must work
17.2 with the Department of Administration and the Minnesota Historical Society to initiate a
17.3 request for qualification or request for proposal (RFP) process to select a design.

17.4 (10) If the board decides to remove the work, the Minnesota Historical Society
17.5 must determine the final disposition of the work. The Minnesota Historical Society reserves
17.6 the first right of refusal for removed works of historic value. If the Minnesota Historical
17.7 Society does not accept the work, the work's disposition must be determined by Minnesota
17.8 Statutes, chapter 138.

17.9 J. Board staff oversee and support the work of the committee.

17.10 K. The board must use the following criteria to evaluate requests for the
17.11 modification of commemorative artwork:

17.12 (1) The proposed modification must make the work more welcoming and
17.13 engaging to nearby and statewide communities. The proposed modification must involve
17.14 nearby and statewide communities in the proposed modification's conceptualization and
17.15 development.

17.16 (2) The proposed modification must embrace historical complexity and create
17.17 space for a productive range of responses, conversations, and interpretations.

17.18 (3) The proposed modification must consider the social and cultural conditions
17.19 at the time of the work's addition.

17.20 (4) The proposed modification must prompt reflection, dialogue, and
17.21 awareness of the stories, perspectives, and experiences of historically marginalized or
17.22 oppressed communities.

17.23 (5) The proposed modification must incorporate the views of all interested
17.24 groups and individuals and consider the relationship of these groups' collective history,
17.25 heritage, and values to the work.

18.1 (6) The proposed modification must implement the lifespan assigned to the
18.2 work when the work was installed or must assign a lifespan to the work that considers the
18.3 vision statement and guiding principles of parts 2400.2040 to 2400.2707.

18.4 (7) The proposed modification creates an opportunity to increase public
18.5 understanding of and dialogue about Minnesota's history.

18.6 (8) The proposed modification enhances the work's function as a source of
18.7 collective identity and belonging for all Minnesotans. The proposed modification generates,
18.8 contributes to, or enhances existing social activity in the surrounding public space.

18.9 (9) The proposed modification must accurately represent or commemorate a
18.10 significant event, group, or individual in Minnesota's history.

18.11 (10) The proposed modification must respect the contributions and
18.12 perspectives of the work's creators and the group or individuals depicted in the work and
18.13 the group's or individuals' communities.

18.14 (11) The proposed modification must seek to achieve peace, reconciliation,
18.15 truth, and justice for individuals, groups, and communities that are not represented, or who
18.16 are misrepresented, in the historical record.

18.17 (12) The proposed modification must acknowledge evolving social values
18.18 and account for the views and needs of the contemporary community.

18.19 L. The board must use the following criteria to evaluate requests for the removal
18.20 of commemorative artwork:

18.21 (1) the method by which the work was acquired and accessioned in the state's
18.22 collection, such as by donation, loan, or commission;

18.23 (2) the qualifications and professional reputation of the artist, and the work's
18.24 craftsmanship, conceptual content, style, and form;

19.1 (3) the availability of necessary funding for conservation, maintenance, and
19.2 repair of the work; exhibition and storage space; real property for siting artwork; and staff
19.3 support;

19.4 (4) the degree to which removal of the work would detract from the overall
19.5 artistic and architectural integrity of the Capitol or Capitol area;

19.6 (5) community feedback about the work, the work's site, and the work's
19.7 condition collected at public meetings;

19.8 (6) the degree to which the work misrepresents the state's history or has the
19.9 effect of significantly intimidating or adversely affecting a group of people;

19.10 (7) issues related to liability, insurance, intellectual property rights, warranties,
19.11 ownership, theft, vandalism, loss, indemnification, and public safety;

19.12 (8) the lifespan assigned to the work when the work was installed or, if no
19.13 lifespan was assigned when the work was installed, a lifespan that considers the vision
19.14 statement and guiding principles of parts 2400.2040 to 2400.2707;

19.15 (9) the work's style, form, scale, diversity, quantity, quality, longevity, and
19.16 compatibility with the existing collection of artworks, and goals of the board;

19.17 (10) accessibility, public safety, and the social, cultural, historical, ecological,
19.18 physical, and functional context of the artwork in relation to the site, both existing and
19.19 planned;

19.20 (11) safety, the avoidance of emergencies caused by hazards, relevant
19.21 construction schedules, and the allowance of enough time for a normal review process; and

19.22 (12) the value of the work as determined by a professional appraiser.

20.1 Subp. 2. **G-2 District underground structures.** Underground structures in the G-2
20.2 District containing uses permitted in the G-1 District are permitted under the following
20.3 conditions:

20.4 A. the location and type of landscaping must preserve and enhance the Capitol
20.5 area;

20.6 B. safeguards for erosion control shall be provided that include, but are not limited
20.7 to, landscaping and seeding of topsoil;

20.8 C. reasonable documentation satisfactory to the board that soil conditions shall
20.9 not cause damage to adjacent property shall be provided;

20.10 D. vistas of the Capitol shall remain intact; and

20.11 E. only aboveground uses that are essential to the operation of underground
20.12 structures shall be permitted, including but not limited to ventilation shafts. These
20.13 aboveground accessory uses shall in no way detract from the Capitol area.

20.14 Subp. 3. **Day care facilities.** Day care facilities must conform to all applicable state
20.15 and city licensing standards for day care facilities. A fence at least 3-1/2 feet in height shall
20.16 surround all play areas located in a front yard or adjacent to a public or private street.

20.17 **REPEALER.** Minnesota Rules, part 2400.2705, subparts 2 and 3, are repealed.