

**Capitol Area Architectural and Planning Board
Proposed Permanent Rules Regulating Capitol Area Commemorative Artwork**

2400.2040 DEFINITIONS.

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.

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.

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.

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 includes:

- A. schematic design: the description of the overall design concept for an artwork;
 - B. design development: a refined version of the schematic design with scaled drawings showing the architectural and site plan details and list of materials;
 - C. construction documents: the instructions for contractors to build the artwork;
- and
- D. bidding: 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.

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

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.

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 that an applicant submits to the board regarding a specific artwork, describing why the applicant is requesting to modify or relocate the artwork and requesting modification of the artwork.

Subp. XX. Public hearing. "Public hearing" means a formal proceeding held by the Capitol Area Architectural and Planning Board to receive comment from all interested parties, including the general public, on a proposed issue or action before the Board for consideration and possible decision. All meetings of the Capitol Area Architectural and Planning Board, including public hearings, comply with Open Meeting Law as described in Minnesota Statutes, chapter 13D.

Rationale: The terms 'public hearing' and 'public meeting' are used repeatedly in the rules and need to be clearly described to differentiate them.

Subp. XX. Public meeting. "Public meeting" means a meeting that is open to attendance by the general public and is hosted online or in a physical location that is accessible to the general public. Public meetings can be any size, address any topic, and may be organized and managed as determined by the meeting host. The host for the meeting may be the CAAPB, or any public, private, nonprofit or community entity.

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

Subp. 65b. **Removal request.** "Removal request" means an application form that an 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.

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

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.

Rationale: Clarify that it's the collection and not each artwork that has to reflect diversity.

B. The board must:

- (1) provide for public input, public access, and transparency in making

decisions about commemorative artwork on the Capitol grounds;

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

~~building; and~~

Rationale: Delete Subp 1 B.(2) because it is redundant with Subp. 1.C and was a typo. During rules drafting, the item was tested in a couple of places in Subp. 1, but the secondary location choice was accidentally not deleted.

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

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

(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 commemorative artwork in the Capitol area must submit the application form available on the board website. ~~from board staff.~~ The ~~website board-~~must ~~also~~ provide clear and accessible instructions for completing the form. When board staff receive ~~a completed an~~ addition ~~application, of a commemorative artwork request form,~~ board staff must review the application for completeness and provide written confirmation of the application's receipt to the applicant. If the information required by the application form is not complete, board staff must notify the applicant within ten days of application receipt indicating if the application is complete or incomplete. If that the application is incomplete board staff must and indicate what information is missing.

Rationale: The first step in reviewing an application is to determine if the application is "complete," meaning that it contains all of the information required for the application. The proposed revisions to Subp. 3.A. clean up the language to clarify this intent.

B. Board staff must review ~~the each~~ complete application and prepare a report analyzing if the application request for addition meets all of the conditions under subpart 2. With a recommendation to the board on whether to accept the application.

Rationale: Clarify intent by replacing the ambiguous phrase "accept the application" with the specific intent which is to determine if the application meets Subp. 2 conditions.

C. Board staff must post a summary of the proposal and the staff website and provide timely through the review steps, public input and meetings application will be

Rationale: Multiple public comments asked that the rules provide assurance that information on commemorative works requests and reviews be easy to find and understand, and that opportunities for public input be clearly identified. The added steps C. and D. and amended step E. ensure that information is readily available throughout the review process, and that public input is sought during staff evaluation of the application's ability to meet the required conditions, and during Board review and decision. These revisions are also proposed in Subp. 7.

report on the agency updates about its progress including opportunities for of the Board at which the discussed or voted upon.

D. After the staff the agency must open a and hold one or more public input on whether addition meets all of the

report is publicly released, 30-day comment period public meeting(s) to gather the application request for conditions under subpart 2.

E. ~~C.~~ When the meeting(s) are complete, prepare a report and

comment period and public the full board staff will recommendation to the

board ~~must vote~~ to accept
2400.2703

or reject the application to

proceed for review under Subp 3.F to 3.N and Subps 4 and 5 based on whether the application meets all of the conditions in subpart 2. The board will meet to consider the report, at which public comment is invited, and vote if the application meets all of the conditions in subp 2 and can advance for review.

(1) If the board accepts an addition application ~~for an addition~~ request, board staff must notify the applicant and the Department of Administration within ~~Within~~ 14 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.~~

(2) If the board rejects an addition application ~~for an addition~~ request, board staff must notify the applicant ~~that the board has rejected the application for an addition request~~ and provide reasons for the rejection.

Rationale: Clarify steps (1) and (2), and Subp. D. (revised as F.) with cleaner sentence structure. Use the same revised language for the corollary steps in Subp. 7

F D. After an application is accepted, ~~accepting an application for an addition,~~ board staff and 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 the commemorative artwork. Board staff and 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.

G E. After board staff and advisers identify a site for the proposed 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. The board must notify the applicant of the board's final decision.

H F. If the board approves of the proposed artwork and the artwork's location, the applicant must raise money or otherwise pay for the cost of conducting a design competition. 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.

I G. The applicant must work with board staff and the 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; and

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

J.H. 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 appropriation of funding. The applicant may be asked to testify on behalf of the applicant's proposal. This testimony must address the proposal's alignment with the Capitol mall design framework and 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.

K.I. Using the Capitol mall design framework and the Comprehensive Plan for the Minnesota Capitol Area incorporated by reference under item **I.G**, 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 board must assemble a design review group to assist the board in selecting a designer or design concept. The design review group must include board members, board staff, architectural advisers, Minnesota Historical Society staff, designers, Department of Administration staff, the

Rationale: A primary intent of the rule amendments is to increase opportunities for public input during review of commemorative work requests. This provides that opportunity within the committee work itself. The purpose of having members of the general public, is that they bring an ‘outside’ perspective to the review, since they are not already affiliated with the agency and other partners, with the applicant, or with a professional or advocacy group. The Cambridge Dictionary defines the “general public” as “ordinary people, especially all the people who are not members of a particular organization or who do not have any special type of knowledge.”

applicant, at least two members of the general public to be selected through an application process, and any other members that the board determines necessary to help the board select a designer or a design concept. The design review group must review the designer or design concept applications and vote for a designer or design concept. After the design review group's vote, the board must review and approve of 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.

L.J. Upon selection of a designer and design concept by the design review group and 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 available to offer funding advice and provide testimony to the legislature but must not directly raise money for the applicant.

M.K. After funding is provided, board staff and advisers, a designer or an 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.

N.L. The selected designer must proceed with the schematic design and design development phases with regular working group reviews. After receiving approval by the executive secretary of the schematic design and design development phases, the project must proceed with construction documents and bidding under the guidance of the working group. ~~The board must issue the final~~ approval of bid documents by the executive secretary must to comply with the design framework document described in Subp. 3.I., the Capitol mall design framework in the Comprehensive Plan for the Minnesota Capitol Area, and parts 2400.2040 and 2400.2703.

Rationale: In the first part of the sentence "The board," as used in this phrase, is ambiguous since it could refer to a formal meeting and action of the Board (which is not mentioned in the step) or refer to action taken by the executive secretary on behalf of the board. The final approval of bid documents for any CAAPB activity is in practice taken by the executive secretary and therefore should be clearly stated here.

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 the Comprehensive Plan for the Minnesota Capitol Area, which is incorporated by reference in subpart 3, item G. The board must consider the site's relationship to other artwork and the Capitol.

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

Rationale: This is redundant with Subp. 3. I. and therefore is not needed here.

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 in the Comprehensive Plan for the Minnesota Capitol Area, which is incorporated by reference in subpart 3, item G. 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, broad-based, ~~overwhelming,~~ and documented public objection to the artwork;

B. the artwork does not meet the guiding principles or violates parts 2400.2040 and 2400.2703;

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.

Rationale: “Merriam Webster defines ‘broad-based’ as “involving or attracting many different types of people”, which is the intent of this condition.

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 the application form available on the board website. The ~~website board~~ must ~~also~~ provide clear and accessible instructions for completing the form. When board staff receive a modification or removal ~~application, request,~~ board staff must review the application for completeness and provide written confirmation of receipt to the applicant. Board staff must not process incomplete applications and must notify the applicant within ten days of application receipt indicating if the application is complete or incomplete. If-if the application is incomplete board staff must indicate what information is missing.

Rationale: The first step in reviewing an application is to determine if the application is "complete," meaning that it contains all of the information required for the application. The proposed revisions to Subp. 7.A. clean up the language to clarify this intent.

B. Board staff must review the complete application and prepare a report analyzing if the application request for determine-if-the modification or removal ~~request~~ meets one or more of the conditions in subpart 6.

Rationale: Clarify intent by replacing the ambiguous phrase "accept the application" with the specific intent to determine if the application meets Subp. 6 conditions.

C. Board staff must post a summary report on the agency updates about its steps, including and meetings of the will be discussed or

Rationale: Multiple public comments asked that the rules provide assurance that information on commemorative works requests and reviews be easy to find and understand, and that opportunities for public input be clearly identified. The added steps C. and D. and amended step E. ensure that information is readily available throughout the review process, and that public input is sought during staff evaluation of the application's ability to meet the required conditions, and during Board review and decision. These revisions are also proposed in Subp. 3.

of the proposal and the staff website and provide timely progress through the review opportunities for public input Board at which the application voted upon.

D. After the the agency must and hold one or more public comment on for modification or the conditions under

staff report is publicly released, provide a place on its website public meeting(s) to gather whether the application request removal meets one or more of subpart 6.

E. When the meeting(s) are

comment period and public complete, board staff will

prepare a report and recommendation to the board to accept or reject the application to proceed for review under Subp 7.F to 7.N and Subps 8 and 9 based on whether the application meets one of more of the conditions in subpart 6. The board will meet to consider the report, at which public comment is invited, and vote if the application meets one of more of the conditions in subp 6 and can advance for 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 and the Department of Administration within that the application has been accepted. Within 14 days of the board's vote accepting the application. 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.

Rationale: Clarify steps (1) and (2), and step F (former C), with cleaner sentence structure, and use the same language for the corollary steps in Subp. 7

(2) If the board rejects a modification or removal application request ~~does not meet any of the conditions in subpart 6~~, board staff must notify the applicant ~~that the board rejected the application~~ and provide the reasons for the rejection.

FC. After an application is accepted, 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, the board executive secretary must convene a select commemorative artwork review committee that includes 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) two professionals experienced in the fields of visual art, public art, art history, architecture, or history. One of the professionals must have knowledge of artwork conservation;
- (5) up to five additional committee members as needed for technical expertise or to represent the public interest; and

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

~~GD.~~ The commemorative artwork review committee must open a 30-day comment period and hold at least one public meeting to gather public input regarding a 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(s) 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, ~~and to an individual or a group that represents or is connected to the artist or sponsor of the original artwork and provide them.~~ ~~The committee must give both applicants~~ the opportunity to speak at the public meeting(s). ~~testify at the public hearing.~~

Rationale: The proposed revisions clarify the intent of this step in two ways:

First, the language was a bit confusing about what type of meetings would occur – public meetings or public hearings. The intent is public meeting(s) and a comment period for the committee to get public input. This step is not intended for public hearing and a board decision.

Second, the use of the term “applicant” in this step is confusing. The intent is to engage someone who represents the original intent or installation of the work, not the current applicant. The revisions remove the word ‘applicant’ and more clearly explain who is to be engaged.

HE. 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, information about and images of the artwork's site, 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; 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

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

I.F. Board staff must provide the commemorative artwork background report to the commemorative artwork review committee for review and present the report to the public in a public hearing. Each committee member must present the committee member's views and participate in the discussion. The committee must make the committee's 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.

J.G. The board executive secretary must prepare and post to the board website a report that includes:

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

(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

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

K.H. If the board approves the application for modification or removal and before implementation begins, the applicant must demonstrate that funding for the project, consistent with the estimated budget, is committed. Board staff are available to offer funding advice and provide testimony to the legislature but may not directly raise money to fund the project.

L.I. If the board approves the request to modify an existing 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.

M.J. If the board approves of the request for the removal of an artwork, 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.

Subp. 8. **Criteria for modification of an existing artwork.** The board must use the following criteria to evaluate requests for the modification of a commemorative artwork:

A. The proposed modification must make 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 historical complexity and create space for a productive range of responses, conversations, and interpretations.

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

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

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

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

G. The proposed modification must enhance the artwork's function as a source of collective identity and belonging for all Minnesotans. The proposed modification must generate, contribute to, or enhance existing social activity in the surrounding public space.

H. The proposed modification must represent or commemorate a significant event, group, or individual in Minnesota's history.

I. The proposed modification must respect 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. The proposed modification must seek 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. The proposed modification must acknowledge evolving social values and account for the views and needs of the contemporary community.

Subp. 9. **Criteria for evaluating removal of an existing commemorative artwork.** The board must use the following criteria 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;

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; exhibition and storage space; real property for siting artwork; and staff support;

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 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.

2400.2705 STANDARDS FOR CIVIC AND INSTITUTIONAL USES.

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

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

- ~~(1) to preserve the integrity of the Capitol area;~~
- ~~(2) to ensure that such works are appropriately designed, constructed, and located;~~
- ~~(3) to maintain the dignity of existing memorials;~~

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

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

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

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

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

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

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

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