

# NATIONAL CAPITAL MEMORIALS AND COMMEMORATIVE WORKS

The Commemorative Works Act of 1986

40 U.S.C. Chapter 89

## CHAPTER 89 -- NATIONAL CAPITAL MEMORIALS AND COMMEMORATIVE WORKS

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### Sec. 8901. Purposes

The purposes of this chapter are--

(1) to preserve the integrity of the comprehensive design of the L'Enfant and McMillan plans for the Nation's Capital;

(2) to ensure the continued public use and enjoyment of open space in the District of Columbia and its environs, and to encourage the location of commemorative works within the urban fabric of the District of Columbia;

(3) to preserve, protect and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital; and

(4) to ensure that future commemorative works in areas administered by the National Park Service and the Administrator of General Services in the District of Columbia and its environs--

(A) are appropriately designed, constructed, and located; and

(B) reflect a consensus of the lasting national significance of the subjects involved.

### Sec. 8902. Definitions and nonapplication

(a) Definitions.--In this chapter,

(1) the term "commemorative work" means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history, except that the term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes.

(2) THE DISTRICT OF COLUMBIA AND ITS ENVIRONS- The term "the District of Columbia and its environs" means those lands and properties administered by the National Park Service and the General Services Administration located in the Reserve, Area I, and Area II as depicted on the map entitled "Commemorative Areas Washington, DC and Environs", numbered 869/86501 B, and dated June 24, 2003.

(3) RESERVE- The term "Reserve" means the great cross-axis of the Mall, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map referenced in paragraph (2).

(4) SPONSOR- The term "sponsor" means a public agency, or an individual, group or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, and which is authorized by Congress to establish a commemorative work in the District of Columbia and its environs.

(b) Nonapplication.--This chapter does not apply to commemorative works authorized by a law enacted before January 3, 1985.

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## Sec. 8903. Congressional authorization of commemorative works

(a) In General.--Commemorative works--

(1) may be established on federal lands referred to in section 8901(4) of this title only as specifically authorized by law; and

(2) are subject to applicable provisions of this chapter.

(b) Military Commemorative Works.--A military commemorative work may be authorized only to commemorate a war or similar major military conflict or a branch of the armed forces. A commemorative work solely commemorating a limited military engagement; or a unit of an armed force may not be authorized. Commemorative works to a war or similar major military conflict may not be authorized until at least 10 years after the officially designated end of such war or conflict;

(c) Works Commemorating Events, Individuals, or Groups.--A commemorative work commemorating an event, individual, or group of individuals, except a military commemorative work as described in subsection (b), may not be authorized until after the 25th anniversary of the event, death of the individual, or death of the last surviving member of the group.

(d) Consultation With National Capital Memorial Advisory Commission.--In considering legislation authorizing commemorative works in the District of Columbia and its environs, the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate shall solicit the views of the National Capital Memorial Advisory Commission.

(e) EXPIRATION OF LEGISLATIVE AUTHORITY- Any legislative authority for a commemorative work shall expire at the end of the seven-year period beginning on the date of the enactment of such authority, or at the end of the seven-year period beginning on the date of the enactment of legislative authority to locate the commemorative work within Area I, if such additional authority has been granted, unless--

(1) the Secretary of the Interior or the Administrator of General Services (as appropriate) has issued a construction permit for the commemorative work during that period; or

(2) the Secretary or the Administrator (as appropriate), in consultation with the National Capital Memorial Advisory Commission, has made a determination that--

(A) final design approvals have been obtained from the National Capital Planning Commission and the Commission of Fine Arts; and

(B) 75 percent of the amount estimated to be required to complete the commemorative work has been raised.

If these two conditions have been met, the Secretary or the Administrator (as appropriate) may extend the seven-year legislative authority for a period not to exceed three additional years. Upon expiration of the legislative authority, any previous site and design approvals shall also expire.

## Sec. 8904. National Capital Memorial Advisory Commission

(a) Establishment and Composition.

There is established the National Capital Memorial Advisory Commission, which shall be composed of;

- (1) the Director of the National Park Service;
- (2) the Architect of the Capitol;
- (3) the Chairman of the American Battle Monuments Commission;
- (4) the Chairman of the Commission of Fine Arts;
- (5) the Chairman of the National Capital Planning Commission;
- (6) the Mayor of the District of Columbia;
- (7) the Commissioner of the Public Buildings Service of the General Services Administration; and
- (8) the Secretary of Defense.

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(b) Chairman.--The Director is the Chairman of the National Capital Memorial Advisory Commission.

(c) Advisory Role.--The National Capital Memorial Advisory Commission shall advise the Secretary of the Interior and the Administrator of General Services (as appropriate) on policy and procedures for establishment of, and proposals to establish, commemorative works in the District of Columbia and its environs and on other matters concerning commemorative works in the Nation's Capital as the Commission considers appropriate.

(d) Meetings.--The National Capital Memorial Advisory Commission shall meet at least twice annually.

## Sec. 8905. Site and design approval

(a) Consultation on, and Submission of, Proposals.--A sponsor authorized by law to establish a commemorative work in the District of Columbia and its environs may request a permit for construction of the commemorative work only after the following requirements are met:

(1) Consultation.--The sponsor must consult with the National Capital Memorial Advisory Commission regarding the selection of alternative sites and design concepts for the commemorative work.

(2) Submittal.--Following consultation in accordance with clause (1), the Secretary of the Interior or the Administrator of General Services, as appropriate, must submit, on behalf of the person, site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission for their approval.

(b) Decision Criteria.--In considering site and design proposals, the Commission of Fine Arts, National Capital Planning Commission, Secretary, and Administrator (as appropriate) shall be guided by, but not limited by, the following criteria:

(1) Surroundings.--To the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to the subject of the work.

(2) Location.--A commemorative work shall be located so that--

(A) it does not interfere with, or encroach on, an existing commemorative work; and

(B) to the maximum extent practicable, it protects open space, existing public use, and cultural and natural resources.

(3) Material.--A commemorative work shall be constructed of durable material suitable to the outdoor environment.

(4) Landscape features.--Landscape features of commemorative works shall be compatible with the climate.

(5) MUSEUMS- No commemorative work primarily designed as a museum may be located on lands under the jurisdiction of the Secretary in Area I or in East Potomac Park as depicted on the map referenced in section 8902(2).

(6) SITE-SPECIFIC GUIDELINES- The National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specific to each site that are mutually agreed upon to ensure that the design of the commemorative work carries out the purposes of this chapter.

(7) DONOR CONTRIBUTIONS- Donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site.

## Sec. 8906. Criteria for issuance of construction permit

(a) Criteria for Issuing Permit.--Before issuing a permit for the construction of a commemorative work in the District of Columbia and its environs, the

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Secretary of the Interior or Administrator of General Services, as appropriate, shall determine that--

- (1) the site and design have been approved by the Secretary or Administrator, the National Capital Planning Commission and the Commission of Fine Arts;
- (2) knowledgeable individuals qualified in the field of preservation and maintenance have been consulted to determine structural soundness and durability of the commemorative work and to ensure that the commemorative work meets high professional standards;
- (3) the sponsor authorized to construct the commemorative work has submitted contract documents for construction of the commemorative work to the Secretary or Administrator; and
- (4) the sponsor authorized to construct the commemorative work has available sufficient amounts to complete construction of the project.

## (b) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION-

(1) In addition to the criteria described above in subsection (a), no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. All such amounts shall be available for those purposes pursuant to the provisions of this subsection. The provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 percent of the funding for such work is provided by private sources.

(2) Notwithstanding any other provision of law, money on deposit in the Treasury on the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 provided by a sponsor for

maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

(3) Money provided by a sponsor pursuant to the provisions of this subsection after the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 shall be credited to a separate account with the National Park Foundation.

(4) Upon request of the Secretary or Administrator (as appropriate), the Secretary of the Treasury or the National Park Foundation shall make all or a portion of such moneys available to the Secretary or the Administrator (as appropriate) for the maintenance of a commemorative work. Under no circumstances may the Secretary or Administrator request funds from a separate account exceeding the total money in the account established under paragraph (2) or (3). The Secretary and the Administrator shall maintain an inventory of funds available for such purposes. Funds provided under this paragraph shall be available without further appropriation and shall remain available until expended.

(c) Suspension for Misrepresentation in Fundraising.--The Secretary of the Interior or Administrator may suspend any activity under this chapter that relates to the establishment of a commemorative work if the Secretary or Administrator determines that fundraising efforts relating to the work have misrepresented an affiliation with the work or the Federal Government.

(d) Annual Report. --The person authorized to construct a commemorative work under this chapter must submit to the Secretary of the Interior or Administrator an annual report of operations, including financial statements audited by an independent certified public accountant. The person shall pay for the report.

## Sec. 8907. Temporary site designation

(a) Criterion for Designation.--If the Secretary of the Interior, in consultation with the National Capital Memorial Commission, determines that a site where commemorative works may be displayed on a temporary basis is

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necessary to aid in the preservation of the limited amount of open space available to residents of, and visitors to, the Nation's Capital, a site may be designated on land the Secretary administers in the District of Columbia.

(b) Plan.--A designation may be made under subsection (a) only if, at least 120 days before the designation, the Secretary, in consultation with the Commission, prepares and submits to Congress a plan for the site. The plan shall include specifications for the location, construction, and administration of the site and criteria for displaying commemorative works at the site.

(c) Risk and Agreement To Indemnify.--A commemorative work displayed at the site shall be installed, maintained, and removed at the sole expense and risk of the person authorized to display the work. The person shall agree to indemnify the United States for any liability arising from the display of the commemorative work under this section.

## Sec. 8908. Areas I and II

(a) Availability of Map.--The Secretary of the Interior and Administrator of General Services (as appropriate) shall make available, for public inspection at appropriate offices of the National Park Service and the General Services Administration, the map entitled 'Commemorative Areas Washington, DC and Environs', numbered 869/86501 B, and dated June 24, 2003.

(b) Specific Conditions Applicable to Area I and Area II.--

(1) Area I.--After seeking the advice of the National Capital Memorial Advisory Commission, the Secretary or Administrator, as appropriate, may recommend the location of a commemorative work in Area I only if the Secretary or Administrator decides that the subject of the commemorative work is of preeminent historical and lasting significance to the United States. The Secretary or Administrator shall notify the Commission, the Committee on Natural Resources of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate of the recommendation that a commemorative work should be located in Area I. The location of a commemorative work in Area I is

deemed to be authorized only if the recommendation is approved by law not later than 150 calendar days after the notification.

(2) Area II.--Commemorative works of subjects of lasting historical significance to the American people may be located in Area II.

(c) RESERVE- After the date of enactment of the Commemorative Works Clarification and Revision Act of 2003, no commemorative work or visitor center shall be located within the Reserve.

## Sec. 8909. Administrative

(a) Maintenance of Documentation of Design and Construction.--Complete documentation of design and construction of each commemorative work located in the District of Columbia and its environs shall be provided to the Secretary of the Interior or Administrator of General Services, as appropriate, and shall be permanently maintained in the manner provided by law.

(b) Responsibility for Maintenance of Completed Work.--On completion of any commemorative work in the District of Columbia and its environs, the Secretary or Administrator, as appropriate, shall assume responsibility for maintaining the work.

(c) Regulations or Standards.--The Secretary and Administrator shall prescribe appropriate regulations or standards to carry out this chapter.

Public Law 99-652 (November 14, 1986)  
Public Law 101-216 (December 11, 1991)  
Public Law 103-321 (August 26, 1994)  
Public Law 107-217 (August 21, 2002)  
Public Law 108-126 (November 17, 2003)  
Public Law 111-11 (March 30, 2009)

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**NOTE:** Title II also includes the following sections which do not contain amendment language to the Commemorative Works Act:

Resources of the United States House of Representatives reports setting forth plans for the following:

## SEC. 201. SHORT TITLE.

This title may be cited as the 'Commemorative Works Clarification and Revision Act of 2003'.

(1) To relocate, as soon as practicable after the date of enactment of this Act, the National Park Service's stable and maintenance facilities that are within the Reserve (as defined in section 8902 of title 40, United States Code).

## SEC. 202. ESTABLISHMENT OF RESERVE.

(a) Findings- Congress finds that--

(2) To relocate, redesign or otherwise alter the concession facilities that are within the Reserve to the extent necessary to make them compatible with the Reserve's character.

(1) the great cross-axis of the Mall in the District of Columbia, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, is a substantially completed work of civic art; and

(3) To limit the sale or distribution of permitted merchandise to those areas where such activities are less intrusive upon the Reserve, and to relocate any existing sale or distribution structures that would otherwise be inconsistent with the plan.

(2) to preserve the integrity of the Mall, a reserve area should be designated within the core of the great cross-axis of the Mall where the siting of new commemorative works is prohibited.

(4) To make other appropriate changes, if any, to protect the character of the Reserve.

## SEC. 205. NO EFFECT ON PREVIOUSLY APPROVED SITES.

Except for the provision in the amendment made by section 202(b) prohibiting a visitor center from being located in the Reserve (as defined in section 8902 of title 40, United States Code), nothing in this title shall apply to a commemorative work for which a site was approved in accordance with chapter 89 of title 40, United States Code, prior to the date of enactment of this title.

## SEC. 206. NATIONAL PARK SERVICE REPORTS.

Within 6 months after the date of enactment of this title, the Secretary of the Interior, in consultation with the National Capital Planning Commission and the Commission of Fine Arts, shall submit to the Committee on Energy and Natural Resources of the United States Senate, and to the Committee on