

Updated September 21, 2020

Authorizing New Additions to Memorials in the District of Columbia: Issues for Consideration

In recent Congresses, measures have been introduced to add new elements to existing memorials in the District of Columbia. Adding new elements to completed commemorative works requires an act of Congress under the Commemorative Works Act (CWA; 40 USC §§ 8901-8909). For example, in the 116th Congress (2019-2020), H.R. 1088 would authorize the modification of the First Division Monument to add elements to honor First Infantry Division members who died during Operation Desert Storm, Operation Iraqi Freedom, Operation New Dawn, and Operation Enduring Freedom. On November 20, 2019, H.R. 1088 passed the House, and it has been referred to the Senate Committee on Energy and Natural Resources.

“It is our duty as Members of Congress to ensure these fallen soldiers are not forgotten by passing the FIRST Act and allowing the inclusion of the names of these 660 fallen soldiers who paid the ultimate sacrifice.”

Rep. Roger Marshall, *Congressional Record*, November 20, 2019, p. H9085

As proposals to add elements to existing memorials are introduced, Congress might consider several subjects regarding proposals to change or make an addition to an existing memorial. These include adding a new element to an existing memorial; placing a new element within the “Reserve” area of the National Mall; and determining criteria for the inclusion of individual names.

Adding New Elements to Existing Memorials

In 1986, the CWA was enacted to provide standards for the consideration and placement of memorials in areas administered by the National Park Service (NPS) and the General Services Administration (GSA) in the District of Columbia. The CWA provides that no “commemorative work may be established in the District of Columbia unless specifically authorized by Congress.” Further, once dedicated, a memorial is considered a completed work of civic art, and additions are generally prohibited.

Generally, encroachment on an existing memorial occurs when a new memorial or new element is added to an existing, completed memorial. Pursuant to the CWA, a new commemorative work “shall be located so that ... it does not interfere with, or encroach on, an existing commemorative work.”

Even though the CWA established a general prohibition against adding new elements to existing memorials, in

subsequent legislation Congress has authorized six new elements at existing commemorative works sites. These are

- a plaque at the Vietnam Veterans Memorial (P.L. 106-214) to veterans who died as a result of service during the Vietnam War;
- a plaque at the Lincoln Memorial (P.L. 106-365) commemorating Reverend Dr. Martin Luther King Jr.’s “I Have a Dream” speech;
- a plaque at the World War II Memorial to honor Senator Robert J. Dole’s leadership “in making the Memorial a reality on the National Mall...” (P.L. 111-88);
- a plaque at the World War II Memorial (P.L. 113-123) with the text of President Franklin D. Roosevelt’s D-Day prayer;
- a wall of remembrance at the Korean War Memorial (P.L. 114-230); and
- new commemorative elements to honor Second Infantry Division members who have been killed in action (P.L. 115-141, Division G, § 121(a)(1)) at the Second Division Memorial in President’s Park.

Reserve Area of the National Mall

Pursuant to the CWA, “to preserve the integrity of the Mall ... the siting of new commemorative works is prohibited” in the Reserve (40 U.S.C. § 8908(c)). The Reserve is “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” (40 U.S.C. § 8902(a)(3)). **Figure 1** shows the reserve area of the National Mall.

Figure 1. Reserve Area of the National Mall



Source: National Park Service.

Proposals to allow for the construction of a new memorial as an addition to a completed memorial in the reserve would allow a new element to be built in a location that is otherwise prohibited. **Figure 2** shows an aerial view of the Korean War Veterans Memorial, where a new wall of remembrance has been authorized to be built.

Figure 2. Korean War Veterans Memorial



Source: U.S. Department of the Interior, National Park Service, “Freedom is Not Free,” *Korean War Veterans Memorial*, at <https://www.nps.gov/kowa/index.htm>.

Authorizing a new element to an existing memorial within the Reserve could be seen by some as contrary to the spirit of the CWA. Others, however, have seen merit in adding new elements to existing works to honor individuals or events not initially commemorated.

Memorials with Individual Names

Some memorials choose to honor individuals by placing names on the memorial. Should a memorial include individual names, a process might be established to determine the initial list of names to be included and whether additional names might be added in the future.

Determining Initial Names

With the authorization of a wall of remembrance at the Korean War Veterans Memorial, once the wall’s design has been decided, which names are to be included on the wall must be determined. For example, the Vietnam Veterans Memorial was dedicated with 57,939 names inscribed on its wall. These names were obtained from the Department of Defense (DOD), which determined eligibility pursuant to Executive Order 11216, issued by President Lyndon Johnson on April 24, 1965. This executive order defined the combat zone for the Vietnam War.

Since the Korean War Veterans Memorial is a war memorial, a list of members of the Armed Forces who died “in theatre in the Korean War” would likely be supplied by DOD. According to the American Battle Monuments Commission (ABMC), an honor roll currently exists at the Korean War Veterans Memorial. The honor roll is a computer kiosk, attended by a National Park Service Ranger, that includes the “names of all military personnel who lost their lives during the Korean War, including the individual’s name, service rank, service number, date of birth, hometown or country of entry into the service, cause of death, date of death; and, if the information is furnished to ABMC, the serviceman’s unit, awards, circumstances

surrounding the death or missing in action, and photograph.” Whether names included in the honor roll would be the same as those on the proposed memorial wall is unknown.

Adding Additional Names

In addition to determining whether a memorial should include individual names, a memorial might allow additional names to be added. Once a memorial contains individual names, adding additional names might not be considered adding a new element to an existing commemorative work. Instead, processes could be established to determine the eligibility of additional individuals to the memorial wall. For example, the Vietnam Veterans Memorial verifies names with the DOD to determine eligibility. Since the Vietnam Memorial’s dedication in 1982, 328 names have been added after DOD approval. Similarly, the National Law Enforcement Officers Memorial, which honors “law enforcement officers who die in the line of duty,” adds names of fallen officers, “plus recently discovered officers who died years ago,” each May during National Police Week. **Figure 3** shows names being added to the National Law Enforcement Officers Memorial

Figure 3. Adding Names to the National Law Enforcement Officers Memorial



Source: National Law Enforcement Officers Memorial, “How Names Are Added.” For more information, see <https://nleomf.org/memorial/how-names-are-added>.

Concluding Observations

Congress faces a number of choices on how to commemorate individuals, events, and groups. One choice involves determining whether a new memorial or an addition to an existing memorial is most appropriate. The CWA imposes restrictions on adding new elements to existing memorials and on the location of new memorials. Congress could choose to amend the CWA to address these restrictions, or it could follow recent practice, evaluating each proposal on a case-by-case basis. Additionally, should a memorial include individual names, a process likely would be established to determine which names to include at the memorial and whether additional names might be added in the future.

For more detailed analysis, see CRS Report R43241, *Monuments and Memorials in the District of Columbia: Analysis and Options for Proposed Exemptions to the Commemorative Works Act*; and CRS Report R41658, *Commemorative Works in the District of Columbia: Background and Practice*.

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IF 10448

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