

**CHAPTER 33.430**  
**ENVIRONMENTAL ZONES**

(Amended by: Ord. No. 167293, effective 1/19/94; Ord. No. 168698, effective 4/17/95; Ord. No. 169375, effective 10/4/95; Ord. No. 171219, effective 7/1/97; Ord. No. 171260, effective 7/12/97; Ord. No. 171740, effective 11/14/97; Ord. No. 173015, effective 2/12/99; Ord. No. 174263, effective 4/15/00; Ord. Nos. 175965 and 176333, effective 7/1/02; Ord. No. 177422, effective 6/7/03; Ord. No. 178509, effective 7/16/04; Ord. No. 178657, effective 9/3/04; Ord. No. 178961, effective 6/13/05; Ord. No. 179540, effective 9/26/05; Ord. No. 180619, effective 12/22/06; Ord. No. 181357, effective 11/9/07; Ord. No. 183598, effective 4/24/10)

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## General

### **33.430.010 Purpose**

Environmental zones protect resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources. These regulations also help meet other City goals, along with other regional, state, and federal goals and regulations. The environmental regulations also carry out Comprehensive Plan policies and objectives.

### **33.430.015 Purpose of the Environmental Protection Zone**

The Environmental Protection zone provides the highest level of protection to the most important resources and functional values. These resources and functional values are identified and assigned value in the inventory and economic, social, environmental, and energy (ESEE) analysis for each specific study area. Development will be approved in the environmental protection zone only in rare and unusual circumstances.

### **33.430.017 Purpose of the Environmental Conservation Zone**

The Environmental Conservation zone conserves important resources and functional values in areas where the resources and functional values can be protected while allowing environmentally sensitive urban development.

### **33.430.020 Environmental Reports**

The application of the environmental zones is based on detailed studies that have been carried out within eight separate areas of the City. The City's policy objectives for these study areas are described in the reports. Each study report identifies the resources and describes the functional values of the resource sites. Functional values are the benefits provided by resources. The values for each resource site are described in the inventory section of these reports. The City has adopted the following eight environmental study reports:

- *Balch Creek Watershed Protection Plan*
- *Columbia Corridor Industrial and Environmental Mapping Project*
- *East Buttes, Terraces and Wetlands Conservation Plan*

- *Fanno Creek and Tributaries Conservation Plan*
- *Johnson Creek Basin Protection Plan*
- *Northwest Hills Natural Areas Protection Plan*
- *Skyline West Conservation Plan*
- *Southwest Hills Resource Protection Plan*

### **33.430.030 Relationship To Other Environmental Regulations**

Some of the eight study areas discussed under Section 33.430.020 impose additional environmental regulations in Plan Districts. These additional regulations either supplement or supersede the regulations of this Chapter. Paragraph 33.700.070.E describes the hierarchy of regulations within the *Zoning Code*.

Additionally, Natural Resource Management Plans may contain regulations that supersede or supplement the regulations of this chapter. Whenever natural resource management plan provisions conflict with other provisions of this chapter, the natural resource management plan provisions supersede. Non-conflicting provisions supplement the provisions of this chapter. Maps 430-9, 10, 11 and 12 show Natural Resource Management Plan areas.

The following Plan Districts and Natural Resource Management Plans have additional regulations that may supersede or supplement the environmental regulations of Chapter 430:

- *The Balch Creek Watershed (see Chapter 33.563, Northwest Hills Plan District)*
- *The Columbia South Shore within the Columbia Corridor (see Chapter 33.515, Columbia South Shore Plan District)*
- *Johnson Creek Basin (see Chapter 33.537, Johnson Creek Basin Plan District)*
- *Northwest Hills Natural Areas (see Chapter 33.563, Northwest Hills Plan District)*
- *Skyline West Conservation Plan area (see Chapter 33.563, Northwest Hills Plan District)*
- *East Columbia Neighborhood Natural Resources Management Plan (separate document)*
- *Smith and Bybee Lakes Natural Resources Management Plan (separate document)*
- *Forest Park Natural Resources Management Plan (separate document)*
- *Natural Resources Management Plan for the Peninsula Drainage District No. 1 (separate document)*

This chapter contains only the City's environmental regulations. Activities which the City regulates through this chapter may also be regulated by other agencies. In cases of overlapping City, Special District, Regional, State, or Federal regulations, the more stringent regulations will control. City approval does not imply approval by other agencies.

### **33.430.035 Other City Regulations**

Other City regulations such as Title 10, Erosion Control, may apply to sites in the environmental overlay zones.

### **33.430.040 Overlay Zones and Map Symbols**

There are two environmental overlay zones.

- A.** The Environmental Protection overlay zone is applied wherever the City determines that highly significant resources and functional values are present. The Environmental Protection overlay zone is shown on the Official Zoning Maps with the "p" symbol.

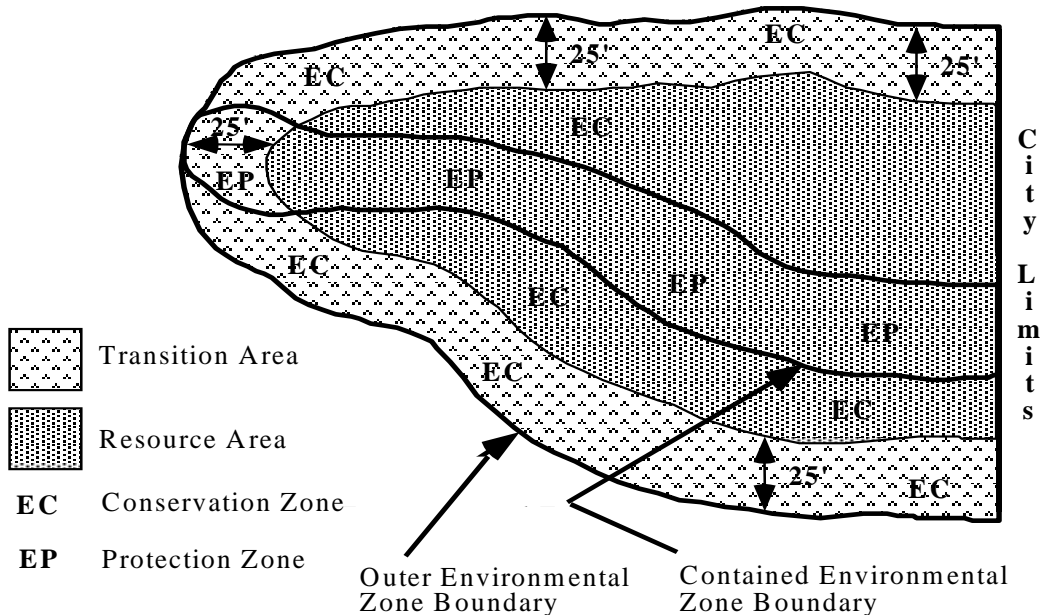
- B. The Environmental Conservation overlay zone is applied wherever the City determines that significant resources and functional values are present. The Environmental Conservation overlay zone is shown on the Official Zoning Maps with the "c" symbol.

**33.430.050 Subareas of Environmental Zones**

Environmental overlay zones contain resource areas and transition areas. Resource areas contain significant resources and functional values. Transition areas surround the resource areas. Resources and functional values within transition areas are not significant, but they provide a buffer for the significant resources and functional values within the resource area. The transition area is measured as the first 25 feet inward from an environmental zone boundary. The remaining area is the resource area. See Figure 430-1. The following are three exceptions:

- A. Where part of an environmental zone boundary is also the City Limits, there is no transition area.
- B. Where environmental zone boundaries are contained within other environmental zone boundaries, there is no transition area.
- C. Where environmental zone boundaries abut other environmental zone boundaries, transition areas are only measured from the combined outer-most boundaries of the environmental zones.

**Figure 430-1  
Environmental Zone Subareas**



**33.430.060 Where These Regulations Apply**

These regulations apply to all environmental zones, except those in the Columbia South Shore Plan District that are south of NE Marine Drive, those in the Cascade Station/Portland International Center Plan District, those that are within the Smith and Bybee Lakes Natural Resources Management Plan area, City-owned land within the Forest Park Natural Resources Management Plan area, and the Peninsula Drainage District No. 1 Natural Resources Management Plan area. See Chapter 33.515, Columbia South Shore Plan District, Chapter 33.508, Cascade Station/Portland International Center Plan District, the Smith and Bybee Lakes Natural Resources Management Plan, the Forest Park Natural Resources Management Plan, or the Natural Resources Management Plan for the Peninsula Drainage District No. 1.

**33.430.070 When These Regulations Apply**

Unless exempted by Section 33.430.080, below, the regulations of this chapter apply to the following:

- A. Development;
- B. All land divisions and property line adjustments;
- C. Removing, cutting, mowing, clearing, burning, or poisoning native vegetation listed in the *Portland Plant List*;
- D. Planting or removing nuisance or prohibited plants listed in the *Portland Plant List*;
- E. Changing topography, grading, excavating, and filling;
- F. Resource enhancement; and
- G. Dedication and expansions of rights-of-way.

**33.430.080 Items Exempt From These Regulations**

The following items, unless prohibited by Section 33.430.090, below, are exempt from the regulations of this chapter. Other City regulations such as Title 10, Erosion Control, must still be met:

- A. Change of ownership;
- B. Temporary emergency procedures necessary for the protection of life, health, safety, or property;
- C. Existing development, operations, and improvements, including the following activities:
  - 1. Maintenance, repair, and replacement of existing structures, exterior improvements, roads, public recreational trails, public rest points, public view points, public interpretative facilities, and utilities. Replacement is not exempt whenever coverage or utility size is increased;
  - 2. Continued maintenance of existing gardens, pastures, lawns, and other planted areas, including the installation of new irrigation and drainage facilities, new erosion control features, and the installation of plants except those listed on the Nuisance or Prohibited Plant Lists. Change of crop type or farming technique on land currently in agricultural use. Pruning trees and shrubs within 10 feet of structures;

3. Changes to existing disturbance areas to accommodate outdoor activities such as gardens and play areas so long as plantings do not include plants on Portland's Nuisance or Prohibited Plant List and no trees 6 inches or greater are removed;
4. Alterations to buildings that do not change the building footprint and do not require adjustments to site-related development standards;
5. Operation, maintenance, and repair of the following:
  - a. Irrigation systems;
  - b. Stormwater management systems;
  - c. Pumping stations; and
  - d. Erosion control and soil stabilization features.
6. Operation, maintenance, and repair of drainage facilities, flood control structures, and conveyance channels that are managed by Drainage Districts as defined in ORS 547, and where the activity is conducted or authorized by the Drainage District. This exemption does not apply if dredge spoils are placed onto the top of banks of the drainageway, or onto upland portions of the environmental overlay zone. Operation, maintenance, and repair of drainage facilities include:
  - a. Dredging and channel cleaning of existing drainage facilities and vegetative maintenance within the minimum floodway cross-section of drainageways;
  - b. Operation, maintenance, and repair of drainage district pump stations, water control structures, or levees;
  - c. Reconfiguring the cross-section of drainage channels below the ordinary high water mark, or changing the location of the low flow channel within a wider drainage channel; and
  - d. Stabilizing banks and restoring levees back to original condition and footprint;
7. Removing trees or plants listed on the Nuisance or Prohibited Plant Lists;
8. Removing trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an arborist. Removing these portions is exempt only if all sections of wood greater than 12 inches in diameter remain, or are placed, in the resource area of the same ownership on which they are cut;
9. Pruning coniferous trees that are within 30 feet of a structure to remove branches up to 6 feet above the ground, when the structure is within the wildfire hazard zone as shown on the City's Wildfire Hazard Zone Map;
10. Alterations to existing houseboats or replacing houseboats in existing slips;
11. Development over existing paved surfaces that are over 50 feet from any identified wetland or water body; and

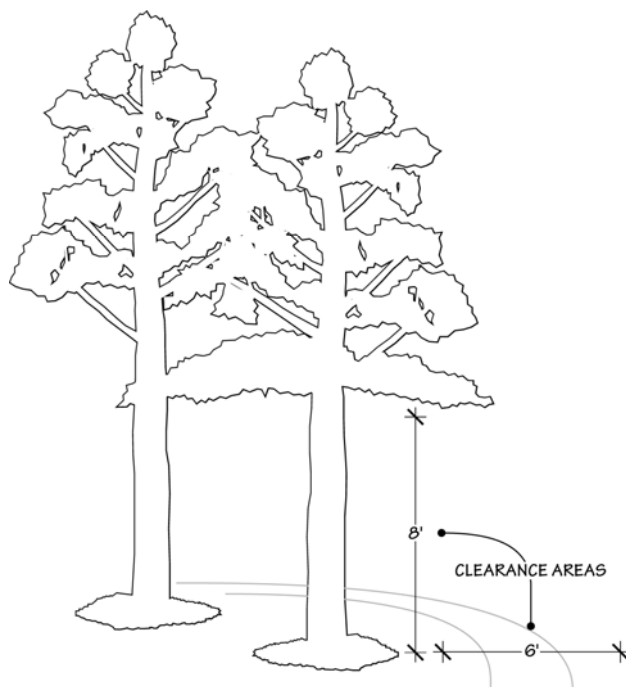
12. Land divisions or Property Line Adjustments where all properties are developed, no additional building sites are created and no additional development is proposed.

**D.** The following new development and improvements:

1. Planting of native vegetation listed on the *Portland Plant List* when planted with hand-held equipment;
2. Public street and sidewalk improvements meeting all of the following:
  - a. Improvements must be within an existing public right-of-way used by truck or automobile traffic; and
  - b. Streets and sidewalks must not exceed the minimum width standards of the Bureau of Transportation Engineering.
3. Groundwater monitoring wells constructed to the standards of the Oregon Water Resources Department and water quality monitoring stations, where access is by foot only;
4. Utilities installed above or below developed portions of public rights-of-way;
5. Utility service using a single utility pole or where no more than 100 square feet of ground surface is disturbed outside of the top of bank of water bodies and where the disturbed area is restored to the pre-construction conditions;
6. Temporary site investigative work including soil tests, land surveys, groundwater and water quality monitoring stations when all of the following are met:
  - a. The work is conducted using hand-held equipment only;
  - b. The disturbance is temporary;
  - c. Disturbance areas are restored to pre-existing conditions; and
  - d. No native trees are removed.
7. Installation of temporary fencing to protect resource enhancement project planting areas, or to close off or control the use of illegal trails. The fence must be removed within 5 years;
8. Installation of signage as part of public recreational trail and resource enhancement projects;
9. Additional disturbance for outdoor uses such as gardens and play areas where the added disturbance area meets all of the following:
  - a. The added disturbance area does not exceed 500 square feet;
  - b. The total disturbance area on the site does not exceed standards in Table 430-1;
  - c. No trees 6 inches or greater are removed; and

- d. The disturbance area is located at least 30 feet from the top of bank of a stream or drainage and at least 50 feet from the edge of a wetland.
10. Trails meeting all of the following:
- a. Trails must be confined to a single ownership or be within a public trail easement;
  - b. Trail widths must not exceed 30 inches, stair width must not exceed 50 inches, and trail grade must not exceed 20 percent except for the portion of the trail containing stairs;
  - c. Plant trimming must not exceed a height of 8 feet and a width of 6 feet as shown in Figure 430-2;
  - d. Native trees larger than 6 inches in diameter and native shrubs or conifers larger than 5 feet tall may not be removed;
  - e. Trails must not be paved; and
  - f. Trails must be at least 15 feet from the top of bank of all water bodies.

**Figure 430-2**  
**Trail Vegetation Pruning and Maintenance Area**



11. All land divisions with tentative plans, final plans, and recorded plats showing all of the following for every lot created or adjusted; and Property Line Adjustments with plans showing all of the following for each lot adjusted:
  - a. Building sites at least five feet from all resource areas. For the purpose of this subsection, "building site" means an area of any shape in which a square 40 feet by 40 feet will fit;
  - b. Public and private utilities (including water lines, sewer lines or drain fields, and stormwater disposal facilities) where none of these utilities are in a resource area; and
  - c. Streets, driveways, and parking areas where all pavement is at least ten feet from a resource area.
- E. Hand removal of trash, provided that native vegetation is not removed or damaged.

### **33.430.090 Prohibitions**

The following items are prohibited in all environmental zones. Prohibitions apply to both transition areas and resource areas:

- A. The use, packaging, transportation, or storage of hazardous substances, except as follows:
  1. Transportation of hazardous substances through environmental zones by rail or on designated truck routes is allowed; and
  2. Use of consumer quantities of hazardous substances within environmental zones is allowed subject to the regulations of this Title. Consumer quantities of hazardous substances are packaged and distributed in a form intended or suitable for sale through retail sales outlets for consumption by individuals for purposes of personal care and household use.
- B. The planting or propagation of any plant identified as a nuisance plant or prohibited plant on the *Portland Plant List*;
- C. Exterior work activities, unless in conjunction with a river-related or river-dependent use. See Chapter 33.910, Definitions; and
- D. Dumping of yard debris or trash.

### **Development Standards**

#### **33.430.100 Environmental Development Standards and Environmental Review**

Compliance with the development standards of this chapter is required for all development in the environmental zones. For proposals that cannot meet all of the standards, Environmental Review is required. Where a proposal can meet all the standards, the applicant may choose to go through the discretionary environmental review process, or to meet the objective standards of this chapter.

The development standards are Sections 33.430.140 through .190; Sections 33.430.150 through .190 address specific types or aspects of development, while 33.430.140 applies to proposals not covered by the more specific sections. A proposal may be subject to several sections. For example, construction of a house may be subject to the General Development

Standards of 33.430.140, General Standards, and the standards of 33.430.180, Stormwater Outfalls and 33.430.150, Utilities. If the proposal can meet the general standards and standards for utilities, but not those for a stormwater outfall, environmental review is required only for the stormwater outfall. To be eligible to use the development standards for an aspect of a proposal, all of the standards within the relevant section must be met.

### **33.430.110 Purpose**

These provisions are intended to:

- A.** Encourage sensitive development while minimizing impact on resources;
- B.** Provide clear limitations on disturbance within resource areas;
- C.** Ensure that new development and alterations to existing development are compatible with and preserve the resources and functional values protected by the environmental zones;
- D.** Provide clear planting and erosion control requirements within resource areas;
- E.** Buffer the resource area from the noise, fumes, lights, and motion of vehicular traffic associated with industrial, commercial, and multi-dwelling residential uses; and
- F.** Limit the impacts on resources and functional values resulting from construction of certain types of utilities.

### **33.430.120 Procedure**

Compliance with these standards is determined as part of the building permit or development permit application process. Adjustments to these standards through Chapter 33.805, Adjustments, are prohibited. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

### **33.430.130 Permit Application Requirements**

A building permit or development permit application that is reviewed for compliance with the standards of this chapter requires more information than a permit not affected by these provisions. The information in Subsections A and B must be submitted with permit application plans. Submission of the information in Subsection C is optional.

- A.** An existing conditions site plan including:
  - 1. Location of all Environmental Zone lines on the site;
  - 2. Outline of any existing disturbance area, including existing utility locations;
  - 3. Location of any wetlands or water bodies on the site or within 50 feet of the site. Indicate the location of the top of bank, centerline of stream, or wetland boundary as appropriate;
  - 4. Within the disturbance area, all trees that are more than 6 inches in diameter must be indicated by size and species. Trees outside of the disturbance area must be shown as crown cover with an indication of species composition; and

5. Topography shown by contour lines at 2 foot vertical contours in areas of slopes less than 10 percent and at 5 foot vertical contours in areas of slopes 10 percent or greater.

**B.** Proposed development plan including:

1. Outline of the proposed disturbance area, including all areas of proposed utility work;
2. Location and description of all proposed erosion control devices;
3. A stormwater management plan;
4. A landscape plan indicating the size, species, and location of all vegetation to be planted in the environmental zone; and
5. Where applicable, the location and specifications of the site enhancement option with dimensions, a list of Nuisance or Prohibited Plants to be removed, and a landscape plan indicating the size, species, and location of all vegetation to be planted.

**C.** Photographs of the site are not required but are encouraged to supplement the existing conditions site plan.

**33.430.140 General Development Standards**

The standards below apply to all development in the environmental zones except as follows:

- Utilities subject to Section 33.430.150,
- Land divisions subject to Section 33.430.160;
- Property line adjustment subject to Section 33.430.165;
- Resource enhancement projects subject to Section 33.430.170;
- Rights-of-way improvements subject to Section 33.430.175;
- Stormwater outfalls subject to Section 33.430.180; and
- Public recreational trails subject to Section 33.430.190.

Standards A through C and G through R apply to new development. Standards D through R apply to alterations to existing development. Standards B, C and I apply to removal of nuisance and prohibited plants. Only standards E, M, P, Q, and R apply in Transition areas. All of the applicable standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

- A.** The maximum disturbance area allowed within the resource area on the site is determined by subtracting all portions of the site outside the resource area from the number listed in Table 430-1.

<b>Table 430-1 Maximum Disturbance Area Allowed</b>						
	<b>OS and RF Zone</b>	<b>R20</b>	<b>R10</b>	<b>R7</b>	<b>R5</b>	<b>All Other Zones</b>
Maximum Disturbance Area	5,000 sq. ft. [1]	5,000 sq. ft. [1]	5,000 sq. ft. [1]	3,500 sq. ft. [1]	2,500 sq. ft. [1]	50% of the base zone building coverage or 1 acre, whichever is less [1]

Note:

[1] Subtract the amount of area on the site outside the resource area from the number given in the table.

- B.** The disturbance area is set back at least 5 feet from the resource area of any environmental protection zone;
- C.** The disturbance area must be set back at least:
  - 1. Fifty feet from the edge of any identified wetland, from the top of bank of any identified water body within the Columbia Corridor, or any identified water body within a protection zone on lots zoned R10, R20, or RF;
  - 2. Thirty feet from the top of bank of any identified water body within a protection zone on all lots except those zoned R10, R20 or RF; and
  - 3. Thirty feet from the centerline of any identified water bodies within a conservation zone except those within the Columbia Corridor.
- D.** For alterations to existing development, one of the following must be met:
  - 1. The disturbance area does not exceed the limitations of Table 430-1 and the disturbance area is not expanded into or within five feet of the resource area of an environmental protection zone; or
  - 2. If the existing disturbance area now exceeds the limitations of Table 430-1, alterations are allowed within the existing disturbance area if the following are met:
    - a. The existing disturbance area may not be expanded; and
    - b. Increases in building coverage and exterior improvement area are allowed if a site enhancement option is completed on the site. Applicants must show that an area equivalent in size to at least 50 percent of the area proposed for development will be enhanced following one or more of the options described in Table 430-2. If the proposed development is less than 100 square feet, the minimum enhanced area will be 50 square feet.
- E.** The proposed development is set back at least 5 feet from the resource area of any environmental protection zone;
- F.** The proposed development must be set back at least:
  - 1. Fifty feet from the edge of any identified wetland, from the top of bank of any identified water body within the Columbia Corridor, or any identified water body within a protection zone on lots zoned R10, R20, or RF;
  - 2. Thirty feet from the top of bank of any identified water body within a protection zone on lots zoned R7 through IH; and
  - 3. Thirty feet from the centerline of any identified water bodies within a conservation zone except those within the Columbia Corridor.
- G.** The proposed buildings must be set back at least 5 feet from the edge of the disturbance area;

<b>Table 430-2 Minimum Site Enhancement Options</b>	
<b>Option</b>	<b>Action</b>
Option 1 Restoration Planting	Remove plants listed on the Nuisance and Prohibited Plant Lists. Plant the area with native plants at the following minimum planting density: 10 plants per 50 square feet at a ratio of one tree, two shrubs, and 7 groundcover plants. Trees must be at least one inch in diameter, shrubs must be at least 2 gallons, and groundcover plants a minimum pot size of 4 inches. The remaining area may be seeded with native grass seed.
Option 2 Impervious Surface Reduction	Remove impervious surface to improve stormwater management, and replant the area with native plants at the following minimum planting density: 10 plants per 50 square feet at a ratio of one tree, two shrubs, and 7 groundcover plants. Trees must be at least one inch in diameter, shrubs must be at least 2 gallons, and groundcover plants must be a minimum pot size of 4 inches. The remaining area may be seeded with native grass seed.
Option 3 Parking Lot Retrofit	Replace existing interior parking lot landscaping with a vegetated infiltration basin using native plants. The minimum planting ratio for this option is one tree and two shrubs for every 50 square feet of planting area, and groundcover plants to cover the remaining area, planted on 12-inch centers. Trees must be at least one inch in diameter, shrubs must be at least 2 gallons, and groundcover plants a minimum pot size of 4 inches. Enhancements must be approved by the Bureau of Environmental Services as meeting the <i>Stormwater Management Manual</i> , and must also comply with parking lot landscape requirements of this Title.
Option 4 Revegetation Fee	<p>Pay a revegetation fee.</p> <p>1. Fee use and administration. The revegetation fee is collected by BDS and is administered by the Bureau of Environmental Services. The fees collected are used for revegetation projects on public or private property within the same watershed as the site.</p> <p>2. Calculation of required fee contributions. Applicants must contribute the cost to purchase and plant trees, shrubs, and groundcover plants as set out in 3. below. The cost to purchase and plant trees and plants will be adjusted annually as determined by the Director of BES based on current market prices for materials, labor, and maintenance.</p> <p>3. Required fee contribution. The applicant must contribute the following revegetation fee before a building permit will be issued:</p> <ul style="list-style-type: none"> <li>• The cost to purchase, plant, and maintain one tree, two shrubs, and 7 groundcover plants for every 50 square feet of planting area;</li> <li>• The fee calculation will be rounded up to the next multiple of \$10; and</li> <li>• The minimum area to be used in this calculation is 50 square feet. Calculations that are not a multiple of 50 will be rounded up to the next multiple of 50.</li> </ul>

- H.** Where the distance between a building and the edge of the disturbance area is less than 10 feet, additional temporary disturbance area is allowed. The edge of the additional temporary disturbance area may extend no more than 10 feet from the building. The temporary disturbance area must be replanted with three different native shrub species at a minimum 1-gallon size or bare root, planted at a density of 3 plants per 10 square feet with the remaining area planted with native groundcover using a minimum of 4-inch pots at a density of 8 plants per 10 square feet;
- I.** Temporary disturbance areas must be replanted so that the area achieves a 90 percent vegetation cover within one year;

- J.** Native trees may be removed within 10 feet of any proposed structures, within 5 feet of driveways, or to create up to 500 square feet of permanent disturbance area for uses such as gardens and play area. In no case will the combined total diameter of all the 6-inch or greater trees cut exceed 225 inches. Trees listed on the Portland Nuisance Plant List or Prohibited Plant List are exempt from this standard and may be removed;
- K.** Trees cut are replaced as shown in Table 430-3. Replacement trees must be at least one inch in diameter; shrubs must be in at least a 2-gallon container or the equivalent in ball and burlap. All trees and shrubs must be selected from the *Portland Plant List* and planted anywhere on the applicant's site. Conifers must be replaced with conifers and shrubs must consist of at least two different species;
- L.** All vegetation planted in a resource area is native and listed on the *Portland Plant List*. Plants listed on the Portland Nuisance Plant List or Prohibited Plant List are prohibited;

<b>Table 430-3 Tree Replacement</b>		
<b>Size of tree to be removed (inches in diameter)</b>	<b>Option A (no. of trees to be planted)</b>	<b>Option B (combination of trees and shrubs)</b>
6 to 12	2	not applicable
13 to 18	3	1 tree and 3 shrubs
19 to 24	5	3 trees and 6 shrubs
25 to 30	7	5 trees and 9 shrubs
over 30	10	7 trees and 12 shrubs

- M.** The minimum front and street building setback and garage entrance setback of the base zone may be reduced to any distance between the base zone minimum and zero. Where a side lot line is also a street lot line the side building and garage entrance setback may be reduced to any distance between the base zone minimum and zero. Parking spaces may be allowed within the first 10 feet from a front lot line, and within a minimum side street setback;
- N.** Maximum front or street setbacks are as follows:
  1. The front building or street setback of the base zone is the maximum building setback for primary structures.
  2. On a lot with more than one street lot line the maximum setback standard applies to the street lot line that is farthest from the resource area.
  3. In zones with no minimum front or street setback, the maximum setback is 10 feet.
- O.** Fences are allowed only within the disturbance area;
- P.** Parking and truck area buffers:
  1. Auto and light truck areas. For commercial, industrial, and multi-dwelling residential uses, parking areas for autos and light trucks include a ten foot perimeter buffer from the resource area. The buffer is landscaped with plants

listed on the *Portland Plant List* to at least the L2 standard, as stated in Chapter 33.248, Landscaping and Screening;

2. Medium and heavy truck areas. Where allowed by the base zone, the parking, loading, and maneuvering areas for medium and heavy trucks include a ten foot perimeter buffer from the resource area. The buffer is landscaped with plants listed on the *Portland Plant List* to at least the L3 standard, as stated in Chapter 33.248, Landscaping and Screening;
- Q.** Exterior lights must be spaced at least 25 feet apart. Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200-watt incandescent light) must be placed so they do not shine directly into resource areas; and
- R.** Exterior storage and display areas include a ten-foot perimeter buffer from the resource area. The buffer is landscaped to at least the L3 standard, as stated in Chapter 33.248, Landscaping and Screening.

### **33.430.150 Standards for Utility Lines**

The following standards apply to private connections to existing utility lines and the upgrade of existing public utility lines in resource areas. All of the standards must be met unless exempted by Subsection G. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

- A.** The disturbance area for private connections to existing utility lines is no greater than 10 feet wide;
- B.** The disturbance area for the upgrade of existing public utility lines is no greater than 15 feet wide;
- C.** The utility construction does not occur within a stream channel, identified wetland, or water body;
- D.** Disturbance areas must be planted with native species listed in the *Portland Plant List* according to the following densities:
1. Three different native shrub species are required at a minimum 1-gallon size or bare root, planted at a density of 3 plants per 10 square feet;
  2. The remaining area must be planted with native groundcover using a minimum of four inch pots at a density of 8 plants per ten square feet; and
  3. Below the top of bank on slopes greater than 30 percent or in riprap areas, live stakes, 2 to 12 inches in diameter, may be substituted for the requirements of D.1 and D.2 above. Stakes must be installed at a density of 2 to 4 stakes per square yard. Detailed specifications for installing live stakes are found in the *Erosion Control Manual*.
- E.** Native trees more than 10 inches in diameter may not be removed;
- F.** Each 6 to 10-inch diameter native tree cut must be replaced at a ratio of three trees for each one removed. The replacement trees must be a minimum one-half inch diameter and selected from the *Portland Plant List*. All trees must be planted on the applicant's site but not within 10 feet of a paved surface. Where a utility line is approximately parallel with the stream channel at least half of the replacement trees must be planted between the utility line and the stream channel.

- G. Exemption.** If a proposed utility line or upgrade to a utility line runs through an area that has already been approved as a disturbance area, or allowed by the standards of this chapter, it is exempt from Subsections A, B and D.

**33.430.160 Standards for Land Divisions and Planned Developments**

The following standards apply to land divisions and Planned Developments in the environmental overlay zones. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

- A.** All development is outside the resource area of the environmental protection zone;
- B.** Where there is a house on the site that is in the environmental protection zone, it may remain if a new lot is created that meets the following:
  1. The existing house will remain; and
  2. A new lot is created that is no larger than required to contain the existing house, garage, minimum required setbacks, a 12-foot wide driveway, and an open area of 20 feet by 20 feet.
- C.** Resource areas of the environmental protection zone that are outside of lots being created under the provisions of Subsection B., above, are located entirely within environmental resource tracts. The tracts must be owned in common by all of the owners of the land division site, by a Homeowners' Association, by a public agency, or by a non-profit organization; and
- D.** The total amount of disturbance area allowed within the resource area of the environmental conservation zone is either the amount listed in Table 430-4 or 1 acre, whichever is less, minus the amount of area outside the resource area;

<b>Table 430-4 Maximum Disturbance Area for a Land Division and PD Allowed Within the Resource Area[1]</b>						
	<b>OS and RF Zone</b>	<b>R20 Zone</b>	<b>R10 Zone</b>	<b>R7 Zone</b>	<b>R5 Zone</b>	<b>All Other Zones</b>
Maximum Disturbance Area	5% of site area	12% of site area	15% of site area	17% of site area	22% of site area	50% of the base zone building coverage

Notes:

[1] Disturbance area includes utility construction.

- E.** Resource areas outside designated disturbance areas must be placed entirely within environmental resource tracts. The tracts must be owned in common by all of the owners of the land division site, by a Homeowners' Association, by a public agency, or by a non-profit organization;
- F.** The combined total diameter of trees cut may not exceed 225 inches per dwelling unit in residential zones. In all other zones tree removal is limited to the boundaries of the approved disturbance area. Trees that are less than 6 inches in diameter and trees listed on the Portland Nuisance Plant List or the Prohibited Plant List are exempt from this standard and may be removed.
- G.** The standards of Subsections 33.430.140.B, C, and K through R must be met.

- H. Streets, alleys, walkways, and stormwater facilities are not created within 50 feet of an identified wetland or water body. The standard does not apply to recreational trails identified by the Comprehensive Plan;
- I. Right-of-way and roadway widths do not exceed the maximums listed in Table 430-5; and
- J. Utility construction must meet the applicable standards of Section 33.430.150. Private utility lines on a lot where the entire area of the lot is approved to be disturbed and where the private utility line provides connecting service directly to the lot from a public system are exempt from this standard.

<b>Table 430-5</b>			
<b>Maximum Right-of-way and Roadway Widths</b>			
<b>Base Zone</b>	<b>Type of Street</b>	<b>Right-of Way Width</b>	<b>Roadway Width</b>
OS and RF – R7	Through	35 feet	20 feet
R5	Through	40 feet	20 feet
R2.5 – IR and C, E and I	Through	40 feet	28 feet
OS and RF – R5	Dead-end	35 feet	20 feet
R2.5 - IR and C, E and I	Dead-end	40 feet	28 feet

**33.430.165 Standards for Property Line Adjustments**

The following standards apply to Property Line Adjustments (PLAs) in the environmental overlay zones that do not meet one of the exemptions in 33.430.080.C.12 or 33.430.080.D.11. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280. For purposes of this section, the site of a Property Line Adjustment is the two properties affected by the relocation of the common property line.

- A. A Property Line Adjustment may not result in any property being entirely in the environmental protection zone, unless that property is entirely in the environmental protection zone before the PLA, or the property will be dedicated or limited by deed restriction to the uses allowed in the OS zone.
- B. The amount of area on each property that is outside of the resource area of the environmental overlay zone may not be reduced below the square footage in Table 430-6. A property that contains less than the area listed in Table 430-6 outside of the resource area of the environmental overlay zone may not move further out of conformance with Table 430-6.

<b>Table 430-6</b>				
<b>Minimum Area Required Outside of Resource Area</b>				
	<b>OS through R10 Zones</b>	<b>R7 Zone</b>	<b>R5 Zone</b>	<b>All Other Zones</b>
Minimum Area Required	5,000 sq. ft.	3,500 sq. ft.	2,500 sq. ft.	50% of the base zone building coverage or 1 acre, whichever is less

**33.430.170 Standards for Resource Enhancement Projects**

The following standards apply to resource enhancement projects in the environmental zones. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

- A.** There is no excavation or fill of, or construction activity within any wetland or water body;
- B.** There is no net fill, or increase in the amount of soil on the site;
- C.** No native vegetation listed on the *Portland Plant List* is removed except as allowed by E. below;
- D.** Disturbance areas related to structure removal and not scheduled for replanting must be replanted with native plants to achieve a 90 percent vegetative cover within one year, except for in-water structure removal;
- E.** No structures are proposed except for public viewing areas developed as part of the project. The public viewing areas must meet the following:
  - 1. The viewing area may create up to 500 square feet of permanent disturbance area;
  - 2. The viewing area is at least 30 feet from the top of bank;
  - 3. The viewing area is not in the floodway;
  - 4. Native trees more than 10 inches in diameter may not be removed;
  - 5. Each 6 to 10-inch diameter native tree removed must be replaced at a rate of three trees for each one removed. The replacement trees must be a minimum one-half inch diameter or 3 to 5-gallon conifers and be native trees listed on the *Portland Plant List*. All trees must be planted on the site; and
- F.** Temporary disturbance areas may be seeded with sterile seed that is certified as 100 percent weed-free for erosion control purposes until replanting occurs.

### **33.430.175 Standards for Right-of-Way Improvements**

The following standards apply to unimproved and partially improved rights-of-way. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280. New rights-of-way that are part of a proposed land division or planned development must be reviewed under the Standards for Land Divisions and Planned Developments in Section 33.430.160.

- A.** The proposed paved roadway portion of the right-of-way must not be more than 26 feet wide and 2600 square feet in area;
- B.** The proposed disturbance area for the right-of-way improvement must;
  - 1. Be at least 50 feet from the edge of any wetland or waterbody;
  - 2. Be at least 5 feet from the resource area of any environmental protection zone; and
  - 3. Be no larger than 3300 square feet in area;
- C.** Planted areas, including stormwater swales, must be planted with native plants from the *Portland Plant List*;
- D.** Native trees may be removed within 10 feet of the edge of the right-of-way improvement. In no case may the combined total diameter of all the 6-inch or

greater trees cut exceed 225 inches. Trees listed on the Nuisance or Prohibited Plant Lists are exempt from this standard; and

- E. The right-of-way improvements meet the development requirements of the City Engineer or the Permanent Rule for Private Rights-of-Way.

**33.430.180 Standards for Stormwater Outfalls**

The following standards apply to the installation of stormwater outfalls. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

- A. The temporary disturbance area for the stormwater outfall is no greater than 10 feet wide;
- B. Native trees more than 10 inches in diameter may not be removed;
- C. Each 6 to 10-inch diameter native tree cut must be replaced on the site at a ratio of 3 native trees for each one removed. The replacement trees must be at least one-half inch in diameter and selected from the *Portland Plant List*.
- D. Temporary disturbance areas must be planted with native species listed in the *Portland Plant List* according to the following densities:
  - 1. Three different native shrub species are required at a minimum 1-gallon size or bar root, planted at a density of 3 plants per 10 square feet; and
  - 2. The remaining area must be planted with native groundcover using a minimum of 4-inch pots at a density of 8 plants per 10 square feet;
- E. When constructed open channels or vegetated swales are proposed, the slope between the stormwater source and the waterbody does not exceed 15 percent at any point;
- F. Only one outfall pipe may be used on a site. The outfall pipe size may not exceed 4 inches in diameter; and
- G. If an outfall riprap pad is used it must be planted with live stakes of native plant stock, one-half inch in diameter. Stakes must be installed at a density of 2 to 3 stakes per square yard. Detailed specifications for installing live stakes are found in the *Erosion Control Manual*.

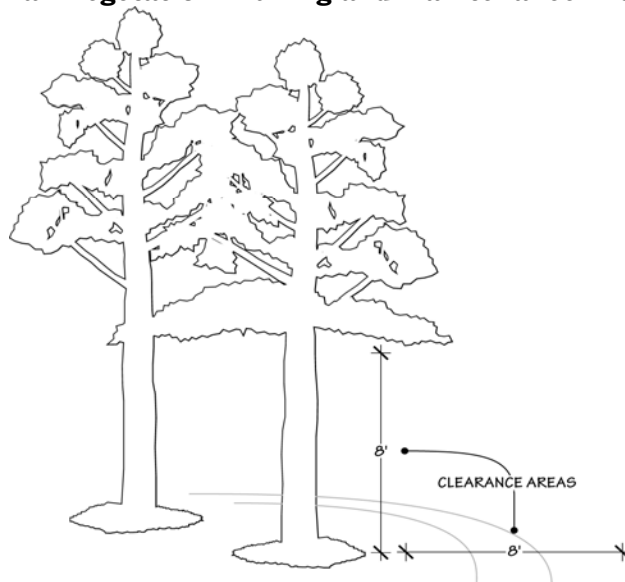
**33.430.190 Standards for Public Recreational Facilities**

The following standards apply to public recreational trails and public viewing areas developed in conjunction with the recreational trail. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

- A. The trail is located on public property or within a public trail easement;
- B. The trail is no longer than 5,000 feet and no wider than 4 feet with a maximum vegetation clearance of 8 feet high and 2 feet on either side of the trail (see Figure 430-3);
- C. If the trail crosses a waterbody it is constructed above the top of bank;

- D.** Native trees more than 10 inches in diameter may not be removed; and
- E.** If a public viewing area is proposed, the following must be met:
  1. The viewing area may create up to 500 square feet of permanent disturbance area;
  2. The viewing area is at least 30 feet from the top of bank;
  3. The viewing area is not in the floodway; and
  4. Each 6 to 10-inch diameter native tree removed must be replaced at a rate of 3 trees for each one removed. The replacement trees must be a minimum one-half inch diameter or 3 to 5-gallon conifers and be native trees listed on the *Portland Plant List*. All trees must be planted on the site.

**Figure 430-3  
Trail Vegetation Pruning and Maintenance Area**



**Environmental Review**

**33.430.210 Purpose**

Environmental review is intended to:

- A.** Prevent harm to identified resources and functional values, compensate for unavoidable harm, and ensure the success of mitigation and enhancement activities;
- B.** Provide a mechanism to modify the development standards of this Chapter if the proposed development can meet the purpose of these regulations;

- C.** Provide flexibility for unusual situations. The review provides for consideration of alternative designs for development that have the least impact on protected resources in the environmental conservation zone and more exacting control over development in the environmental protection zone;
- D.** Allow for more accurate maps and more certainty for property owners by allowing for the location of the environmental zone boundary to be modified when permitted changes to a resource occur or when the boundary location is determined more precisely on a specific site through a more detailed environmental study; and
- E.** Provide for the replacement of resources and functional values that are lost through violations of this Chapter.

#### **33.430.220 When Environmental Review is Required**

Environmental review is required for all development in an environmental zone that does not meet the development standards of Sections 33.430.140 through .190 and for violations of this chapter. Environmental review is also required when an applicant wishes to fine-tune the zone boundary location based on a detailed environmental study. The City Council, Planning Commission, or Director of BDS may initiate an environmental review for environmental zone boundary amendments to reflect permitted changes in the location or quality of resources or functional values. Removal of environmental zone boundaries are processed as a change of an overlay zone, as stated in Chapter 33.855, Zoning Map Amendments. The zone boundary change procedure does not apply to changes caused by violations of this chapter. The procedure for violations of this chapter is described in Section 33.430.400.

#### **33.430.230 Procedure**

Environmental reviews are processed through the following procedures:

- A.** Property Line Adjustments, resource enhancement activities, public recreational trails, rest points, view points, and interpretative facilities are processed through the Type I procedure.
- B.** The following are processed through the Type II procedure:
  - 1. Roads, driveways, walkways, stormwater disposal, and buried connections to existing utility lines;
  - 2. Public safety facilities;
  - 3. Environmental zone boundary modifications;
  - 4. All other uses and development in resource areas of Environmental Conservation zones; and
  - 5. Development within the Transition Area only.
- C.** All other uses or development in resource areas of Environmental Protection zones are processed through the Type III procedure.

#### **33.430.240 Supplemental Application Requirements**

In addition to the application requirements of Section 33.730.060, the following information is required for an environmental review application:

**A. Supplemental site plans required.** One copy of each plan must be at a scale of at least one inch to 100 feet. The following supplemental site plans are required:

- Existing conditions;
- Conditions existing prior to a violation (if applicable);
- Proposed development;
- Construction management; and
- Mitigation or remediation.

A mitigation site plan is required whenever the proposed development will result in unavoidable significant detrimental impact on the identified resources and functional values. A remediation site plan is required whenever significant detrimental impacts occur in violation of the Code and no permit was applied for. The Director of BDS may waive items listed in this Subsection if they are not applicable to the specific review; otherwise they must be included. Additional information such as wetland characteristics or soil type may be requested through the review process.

1. The existing conditions site plan must show the following for the entire site:
  - a. 100-year floodplain and floodway boundaries;
  - b. Boundaries of the resource area and the transition area. These boundaries may be scaled in relation to property lines from the Official City Zoning Maps;
  - c. Topography shown by contour lines at two foot vertical contours in areas of slopes less than ten percent and at five foot vertical contours in areas of slopes ten percent or greater;
  - d. Drainage patterns, using arrows to indicate the direction of major drainage flow; and
  - e. Existing improvements such as structures, or buildings, utility lines, fences, etc.
2. The proposed development site plan must show the following:
  - a. In areas of the site that have been or will be part of the permanent disturbance area, distribution outline of shrubs and groundcovers, with a list of most abundant species;
  - b. In areas of the site that are and will remain undisturbed: Tree crown cover outline, and generalized species composition;
  - c. A grading plan showing proposed alteration of the ground at two-foot vertical contours in areas of slopes less than ten percent and at five-foot vertical contours in areas of slopes ten percent or greater;
  - d. Trees greater than six inches in diameter, identified by species. In the case of violations, also indicate those that were cut or damaged by stump diameter and species;
  - e. Proposed development, including proposed buildings, walkways, decks, retaining walls, bridges, garages, utility lines, stormwater management systems; and

- f. Proposed planting areas.
3. A construction management site plan must show the following:
    - a. Areas that will be disturbed, including equipment maneuvering areas;
    - b. Areas where existing topography and vegetation will be left undisturbed;
    - c. Location of site access and egress;
    - d. Equipment and material staging and stockpile areas;
    - e. Erosion control measures; and
    - f. Measures to protect trees and vegetation.
  4. A mitigation or remediation site plan must show the following:
    - a. Dams, weirs, or other in-water structures;
    - b. Distribution outline, species composition, number, and percent cover of groundcovers to be seeded or planted;
    - c. Distribution outline, species composition, size, number, and spacing of shrubs to be planted;
    - d. Location, species, number, and size of each tree to be planted;
    - e. Stormwater management features, including retention, infiltration, detention, discharges, and outfalls;
    - f. Water bodies to be created, including depth;
    - g. Water sources to be used, including volumes; and
    - h. Information showing compliance with Section 33.248.090, Mitigation and Restoration Plantings.

**B. Supplemental narrative.** The following is required:

1. Impact evaluation. An impact evaluation is required to determine compliance with the approval criteria and to evaluate development alternatives for a particular site. The alternatives must be evaluated on the basis of their impact on the resources and functional values of the site. In the case of a violation, the impact evaluation is used to determine the nature and scope of the significant detrimental impacts. To the extent that the site resources and functional values are part of a larger natural system such as a watershed, the evaluation must also consider the cumulative impacts on that system. The impact evaluation is based on the resources and functional values identified as significant in the reports listed in section 33.430.020;
  - a. An impact evaluation includes:
    - (1) Identification, by characteristics and quantity, of the resources and their functional values found on the site;

- (2) Evaluation of alternative locations, design modifications, or alternative methods of development to determine which options reduce the significant detrimental impacts on the identified resources and functional values of the site; and
    - (3) Determination of the alternative that best meets the applicable approval criteria and identify significant detrimental impacts that are unavoidable.
  - b. An impact evaluation for a violation includes:
    - (1) Description, by characteristics and quantity, of the resources and functional values on the site prior to the violation; and
    - (2) Determination of the impact of the violation on the resources and functional values.
2. Construction management plan. Identify measures that will be taken during construction or remediation to protect the remaining resources and functional values at and near the construction site and a description of how undisturbed areas will be protected. For example, describe how trees will be protected, erosion controlled, construction equipment controlled, and the timing of construction; and
3. Mitigation or remediation plan. The purpose of a mitigation or remediation plan is to compensate for unavoidable significant detrimental impacts that result from the chosen development alternative or violation as identified in the impact evaluation. A mitigation or remediation plan includes:
  - a. Resources and functional values to be restored, created, or enhanced on the mitigation or remediation site;
  - b. Documentation of coordination with appropriate local, regional, special district, state, and federal regulatory agencies;
  - c. Construction timetables;
  - d. Operations and maintenance practices;
  - e. Monitoring and evaluation procedures;
  - f. Remedial actions for unsuccessful mitigation; and
  - g. Information showing compliance with Section 33.248.090, Mitigation and Restoration Plantings.

### **33.430.250 Approval Criteria**

An environmental review application will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria are met. When environmental review is required because a proposal does not meet one or more of the development standards of Section 33.430.140 through .190, then the approval criteria will only be applied to the aspect of the proposal that does not meet the development standard or standards.

**A. Public safety facilities, rights-of-way, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments.** Within the resource areas of environmental zones, the applicant's impact evaluation must demonstrate that all of the general criteria in Paragraph A.1 and the applicable specific criteria of Paragraphs A.2, 3, or 4, below, have been met:

1. General criteria for public safety facilities, rights-of-way, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments;
  - a. Proposed development locations, designs, and construction methods have the least significant detrimental impact to identified resources and functional values of other practicable and significantly different alternatives including alternatives outside the resource area of the environmental zone;
  - b. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;
  - c. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;
  - d. Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and
  - e. The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.
2. Public safety facilities. The public benefits of the proposal outweigh all significant detrimental impacts;
3. Rights-of-way, driveways, walkways, outfalls, and utilities;
  - a. The location, design, and construction method of any outfall or utility proposed within the resource area of an environmental protection zone has the least significant detrimental impact to the identified resources and functional values of other practicable alternatives including alternatives outside the resource area of the environmental protection zone;
  - b. There will be no significant detrimental impact on water bodies for the migration, rearing, feeding, or spawning of fish; and
  - c. Water bodies are crossed only when there are no practicable alternatives with fewer significant detrimental impacts.
4. Land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments:
  - a. Proposed uses and development must be outside the resource area of the Environmental Protection zone except as provided under Paragraph A.3 above. Other resource areas of Environmental Protection zones must be in environmental resource tracts;

- b. There are no practicable arrangements for the proposed lots, tracts, roads, or parcels within the same site, that would allow for the provision of significantly more of the building sites, vehicular access, utility service areas, and other development on lands outside resource areas of a conservation zone; and
- c. Development, including building sites, vehicular access and utilities, within the resource area of a conservation zone must have the least amount of detrimental impact on identified resources and functional values as is practicable. Significantly different but practicable development alternatives, including alternative housing types or a reduction in the number of proposed or required units or lots, may be required if the alternative will have less impact on the identified resources and functional values than the proposed development.

**B. Resource enhancement projects.** In resource areas of environmental zones, resource enhancement projects will be approved if the applicant's impact evaluation demonstrates that all of the following are met:

1. There will be no loss of total resource area;
2. There will be no significant detrimental impact on any resources and functional values; and
3. There will be a significant improvement of at least one functional value.

**C. Public recreational facilities.** In resource areas of environmental zones, public recreational trails, rest points, view points, and interpretative facilities will be approved if the applicant's impact evaluation demonstrates that all of the following are met:

1. Proposed development locations, designs, and construction methods are less detrimental to identified resources and functional values than other practicable and significantly different alternatives;
2. The public benefits of the proposal outweigh all significant detrimental impacts;
3. Areas disturbed during construction, that do not contain permanent development, will be restored with native vegetation that is similar to the vegetation existing on the site and found on the *Portland Plant List*; and
4. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed.

**D. Modification of zone boundaries.** Modifications of environmental zone boundaries that reflect permitted changes in the location or quality of resource areas will be approved upon finding that the applicant's statement demonstrates that either Paragraph D.1 or D.2 below are met. For the minor modification of environmental zone boundaries based on a more detailed site specific environmental study, the applicant's impact evaluation must demonstrate that Paragraph D.3 below is met:

1. Successful mitigation. An approved mitigation plan has been successful and a new, restored, or enhanced resource exists which, depending on its degree of significance, should be included in either the resource area of an Environmental Conservation zone or the resource area of an Environmental Protection zone; or
2. Approved loss of resource area. All of the following must be met:
  - a. All approved development in a resource area has been completed;
  - b. All mitigation required of this development has been successful; and
  - c. The identified resources and functional values at the developed site no longer exist, or have been subject to a significant detrimental impact.
3. The proposed environmental zone line location accurately reflects the location of the significant or highly significant resources and functional values on the site, plus 25 feet of transition area. The significant or highly significant resources are identified in the Resource Site Inventory of the relevant Environmental Study Report, see 33.430.020.

**E. Other development in the Environmental Conservation zone or within the Transition Area only.** In Environmental Conservation zones or for development within the Transition Area only, the applicant's impact evaluation must demonstrate that all of the following are met:

1. Proposed development minimizes the loss of resources and functional values, consistent with allowing those uses generally permitted or allowed in the base zone without a land use review;
2. Proposed development locations, designs, and construction methods are less detrimental to identified resources and functional values than other practicable and significantly different alternatives;
3. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;
4. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;
5. Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and
6. The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.

**F. Other development in the Environmental Protection zone.** In Environmental Protection zones the applicant's impact evaluation must demonstrate that all of the following are met:

1. All sites within the Portland city limits, in which the proposed use or development is possible, are also in the resource areas of Environmental Protection zones;

2. Of these sites, development on the proposed site would have the least significant detrimental environmental impact;
3. There is a public need for the proposed use or development;
4. The public benefits of the proposed use or development outweigh all significant detrimental impacts;
5. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;
6. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;
7. Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and
8. The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.

**G. Corrections to violations.** For corrections to violations of this Chapter the application must meet all applicable approval criteria stated in subsections A through F above, and paragraphs 1, 2.b and 2.c, below. If these criteria cannot be met, then the applicant's remediation plan must demonstrate that all of the following are met:

1. The remediation is done in the same area as the violation; and
2. The remediation plan demonstrates that after its implementation there will be:
  - a. No permanent loss of any type of resource or functional value;
  - b. A significant improvement of a least one functional value; and
  - c. There will be minimal loss of resources and functional values during remediation until the full remediation program is established.

#### **33.430.260 Performance Guarantees**

The Director of BDS may require performance guarantees as a condition of approval to ensure mitigation or remediation. See Section 33.700.050, Performance Guarantees.

#### **33.430.270 Special Evaluation by a Professional**

A professional consultant may be hired to evaluate proposals and make recommendations if the Director of BDS finds that outside expertise is needed due to exceptional circumstances. The professional will have expertise in the specific resource or functional value or in the potential adverse impacts on the resource or functional value. A fee for these services will be charged to the applicant in addition to the application fee.

### **33.430.280 Modifications Which Will Better Meet Environmental Review Requirements**

The review body may consider modifications for lot dimension standards or site-related development standards as part of the environmental review process. These modifications are done as part of the environmental review process and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor-area ratios, intensity of use, size of the use, number of units, or concentration of uses) are subject to the adjustment process of Chapter 33.805. In order to approve these modifications, the review body must find that the development will result in greater protection of the resources and functional values identified on the site and will, on balance, be consistent with the purpose of the applicable regulations. For modifications to lot dimension standards, the review body must also find that the development will not significantly detract from the livability or appearance of the area.

## **Natural Resource Management Plans**

### **33.430.310 Purpose**

Natural resource management plans provide an alternative to case-by-case environmental reviews. These plans provide the means to evaluate the cumulative effects of development and mitigation proposed at different times and in different places within the same large ecosystem. These plans are of particular value in areas of multiple ownership. These plans also provide opportunities for coordination with, or joint adoption by, other local governments; special districts; and regional state, and federal agencies.

### **33.430.320 Scope**

Natural resource management plans must cover large ecosystems such as a forests, creeks, sloughs, or watersheds. These plans must address all resources and functional values conserved and protected by environmental zones within the plan boundaries. The plan must also address all significant detrimental impacts of uses allowed by the plan.

### **33.430.330 Procedure**

Adoption and amendment of natural resource management plans is a legislative procedure. Whenever natural resource management plan provisions conflict with other provisions of this chapter, the natural resource management plan provisions supersede. Non-conflicting provisions supplement the provisions of this chapter.

### **33.430.340 Components**

The applicant must submit a natural resource management plan with the following components:

- A.** Management objectives to maintain or enhance resources and functional values;
- B.** Lists of allowed and prohibited uses;
- C.** Maps of areas where these uses are allowed and prohibited;
- D.** Types of mitigation or enhancement required;
- E.** Maps of areas reserved for these mitigation or enhancement actions;
- F.** Timetables for development, mitigation, and enhancement; and

- G.** Procedures and criteria for approving uses.

**33.430.350 Approval Criteria for Adoption and Amendment.**

A natural resource management plan, or an amendment to a natural resource management plan, will be approved if it meets the following approval criteria:

- A.** Compliance with Sections 33.430.310 through 350;
- B.** Compliance with Statewide Planning Goals and the Portland Comprehensive Plan; and
- C.** If the natural resource management plan is approved as part of a plan district, the criteria for adoption of plan districts that are in Section 33.500.050 are met.

**Corrections to Violations of This Chapter**

**33.430.400 Purpose**

The purpose of Sections 33.430.400 and .405 is to ensure the timely restoration and remediation of natural resources and functional values that have been degraded due to a violation of this chapter.

These sections establish a process to determine which review requirements will be applied to remedy a violation that takes place in the environmental overlay zone. The type of review required depends on the circumstances of the violation. Section 33.430.405 details methods for correcting such violations and Title 3 of the City Code details the enforcement penalties.

**33.430.405 Correction Options**

Applicants must choose one of the following options to correct environmental code violations.

**A. When these options may be used.**

1. If all of the following are met, the applicant may choose Option One, Option Two, or Option Three:
  - a. Tree removal:
    - (1) No more than 12 diameter inches of trees have been removed; or
    - (2) No more than one of the following has been removed:
      - A Madrone 4 inches or less;
      - A Garry Oak 4 inches or less; or
      - A Pacific Yew 2 inches or less;
  - b. The proposal will remove all illegal development; and
  - c. The proposal will replant illegal clearing.

2. If any of the following apply, the applicant may not use Option One, but may chose either Option Two or Option Three:
  - a. Tree removal. More than 12 diameter inches of trees have been removed;
  - b. More than one of the following has been removed:
    - (1) A Madrone 4 inches or less;
    - (2) A Garry Oak 4 inches or less;
    - (3) A Pacific Yew 2 inches or less;
  - c. Any of the following has been removed:
    - (1) A Madrone larger than 4 inches;
    - (2) A Garry Oak larger than 4 inches; or
    - (3) A Pacific Yew larger than 2 inches.
3. If the applicant cannot meet Options One or Two, Option Three must be used.
4. If the violation also violates a condition of approval of a land use review and no trees have been removed, the applicant may choose Option One or the process described in Section 33.730.140. The applicant may not choose Options Two or Three.
5. If the violation also violates a condition of approval of a land use review, and trees have been removed, the applicant must use the process described in Section 33.730.140. The applicant may not choose one of the options in this section.

**B. Option One, Remove and Repair.** This option results in removal of illegal development and replanting and repair of any damage. All of the requirements of this subsection must be met, and the notice and review procedure described in Sections 33.430.410 through 33.430.430 must be followed. Adjustments and modifications to these requirements are prohibited.

1. All items and materials placed in the area of violation are removed using hand-held equipment and no new disturbance area is created;
2. Any soil compaction resulting from the violation is tilled or otherwise broken up to a depth of 6 inches prior to planting; and
3. Violation remediation planting. The area to be planted is the area disturbed by the violation. All of the following must be met:
  - a. The area disturbed by the violation activity must be replanted;
  - b. One tree, 1 shrub, and 5 groundcover plants are required to be planted for every 50 square feet of planting area. Plants must be native and selected from the *Portland Plant List*;
  - c. A second area, equal in size to the area disturbed by the violation activity, must also be replanted as remediation, or 7 additional plants as described in B.3.b. must be planted on the site for every 50 square feet disturbed;

- d. Any Nuisance or Prohibited Plants listed on the *Portland Plant List* must be removed from the planting area and within 10 feet of the planting area;
  - e. Trees must be a minimum 1 inch in diameter unless they are oak, madrone, or conifer, which may be 3 to 5-gallon size. No more than 10 percent of the trees may be oak or madrone. Shrubs must be a minimum of 2-gallon size. All other species must be a minimum of 4-inch pots; and
  - f. The requirements of Section 33.248.090, Mitigation and Restoration Planting, must be met.
4. For violations involving the removal of trees, three native trees must be planted on the site for each tree removed, in addition to other remediation vegetation planted. If any tree removed was a Garry Oak, Madrone, or Pacific Yew, the replacement trees must be of the same species. Planted trees must be a minimum 1 inch in diameter unless they are oak, madrone, or conifer, which may be 3 to 5-gallon size.
- C. Option Two, Retain and Mitigate.** This option results in legalizing the illegal development and mitigating for any damage. All of the requirements of this subsection must be met and the notice and review procedure described in Sections 33.430.410 through 33.430.430 must be followed. Adjustments and modifications to these standards are prohibited.
1. The applicable standards of Section 33.430.140 through .190 must be met; and
  2. Violation remediation planting. The area to be planted is the area disturbed by the violation. Where development is approved for the area disturbed by the violation, an area of the same size elsewhere on the site must be planted. All of the following must be met:
    - a. The area disturbed by the violation activity must be replanted;
    - b. One tree, 1 shrub, and 5 groundcover plants are required to be planted for every 50 square feet of planting area. Plants must be native and selected from the *Portland Plant List*.
    - c. A second area, equal in size to the area disturbed by the violation activity, must also be replanted as remediation, or 7 additional plants as described in C.2.b must be planted on the site for every 50 square feet disturbed;
    - d. Any Nuisance or Prohibited Plants listed on the *Portland Plant List* must be removed from the planting area and within 10 feet of the planting area;
    - e. Trees must be a minimum 1 inch in diameter unless they are oak, madrone, or conifer, which may be 3 to 5-gallon size. No more than 10 percent of the trees may be oak or madrone. Shrubs must be a minimum of 2-gallon size. All other species must be a minimum of 4-inch pots; and
    - f. The requirements of Section 33.248.090, Mitigation and Restoration Planting, must be met.
  3. For violations involving the removal of trees, three native trees must be planted on the site for each tree removed, in addition to other remediation vegetation planted. If any tree removed was a Garry Oak, Madrone, or Pacific Yew, the

replacement trees must be of the same species. Planted trees must be a minimum 1 inch in diameter unless they are oak, madrone, or conifer, which may be 3 to 5-gallon size.

**D. Option Three, Environmental Review.** This option requires Environmental Review, using the approval criteria and procedures below:

1. Approval criteria. The approval criteria of Subsection 33.430.250.G must be met.
2. Review procedures. Reviews are processed as follows:
  - a. Type III. The following situations require a Type III review:
    - (1) The removal of trees that exceeds the quantity of environmental standard 33.430.140.J.
    - (2) Any development, exterior alteration, or exterior improvement within a wetland, stream channel, drainageway, or waterbody.
  - b. Type II. All other environmental reviews to correct environmental code violations are processed through a Type II procedure.
  - c. All environmental reviews must provide the information required in Section 33.430.240, Supplemental Application Requirements.

#### **33.430.407 Recurring Violations of This Chapter**

- A. Recurring violations on a site.** Sites where there have been more than one environmental violation while in the same ownership may be subject to fines under Title 3.
- B. Recurring violations by an individual or business.** Individuals or businesses who have committed more than one environmental violation may be subject to fines under Title 3.

#### **Notice and Review Procedure**

##### **33.430.410 Purpose**

The purpose of this notice and review procedure is to notify the public of the permit review process for development proposed in areas having identified significant resources and functional values.

##### **33.430.420 When These Regulations Apply**

These regulations apply when a building permit or development permit application is requested within the resource area of the environmental conservation zone and is subject to the Development Standards of Section 33.430.110 through .190, 33.430.405.B, or 33.430.405.C. These regulations do not apply to building permit or development permit applications for development that has been approved through environmental review.

### **33.430.430 Procedure**

Applications for building permits or development permits as specified in Section 33.430.420 will be processed according to the following procedures:

**A. Application.** The applicant must submit a site plan with an application for a permit. The site plan must contain all information required by 33.430.130, Permit Application Requirements, and any additional information required for a building permit or development permit review.

**B. Notice of an application.**

1. Notice on website. Upon receipt of a complete application for a building or development permit, the Director of BDS will post a notice of the application on the BDS website and mail a notice of the request to all recognized organizations within 400 feet of the site. The posted notice of the application will contain at least the following information:
  - A statement that a building or development permit has been applied for that is subject to the Development Standards of Section 33.430.110 through .190, 33.430.405.B, or 33.430.405.C.
  - The legal description and address of the site;
  - A copy of the site plan;
  - The place where information on the matter may be examined and a telephone number to call; and
  - A statement that copies of information on the matter may be obtained for a fee equal to the City's cost for providing the copies.

The notice will remain on the website until the permit is issued and administrative decision is made, or until the application is withdrawn.

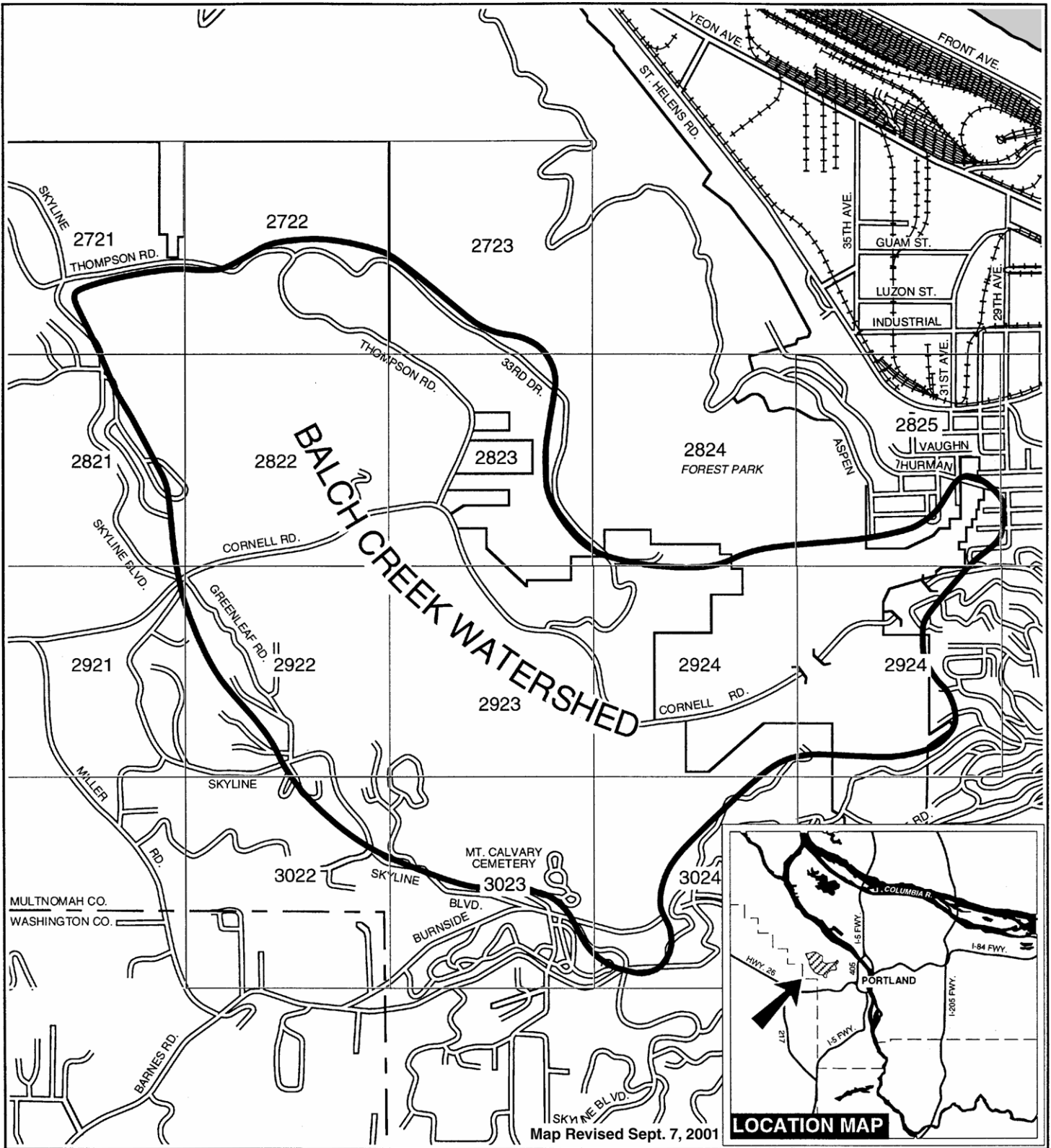
2. E-mailed notice to recognized neighborhood associations. At the time a notice is posted on the BDS website, the Director of BDS will e-mail information about the internet posting to all recognized neighborhood associations and neighborhood coalition offices within 400 feet of the site. When an e-mail address is not available, the notice will be mailed to the neighborhood association and coalition office.

**C. Posting the site and marking development.** The applicant must post notice information on the site and identify disturbance areas as specified below.

1. Posting notice on the site. The applicant must place a public notice about the request on the site when the application is deemed complete by the Bureau of Development Services. A posted notice must be placed on each frontage of the site. If a frontage is over 600 feet long, a notice is required for each 600 feet, or fraction thereof. Notices must be posted within 10 feet of a street lot line and must be visible to pedestrians and motorists. Notices may not be posted in a public right-of-way. The posted notice will contain the same information as the notice posted on the internet.
2. Marking proposed development on site. Prior to inspection of the site, the applicant will mark all trees over six inches diameter to be removed on the site and the building and pavement outlines with high visibility tape. The extent of the disturbance area must be marked with orange construction fencing or similar highly visible material. For corrections to violations, the disturbance area and remediation area to be planted must be identified with high visibility tape or similar high visibility material.

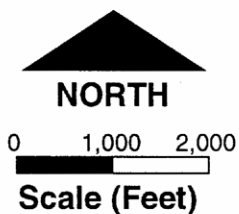
- D. Site inspection.** A BDS inspector will inspect the site prior to issuance of the permit and will provide the Director of BDS with one of the following:
1. An inspection report that confirms the accuracy of the site plan and conformance with the applicable development standards; or
  2. A check sheet identifying the deficiencies in the plan. Deficiencies must be corrected before a building permit is approved, or they may be addressed through environmental review as described in Sections 33.430.210 through 33.430.280.
- E. Comments.** Any interested person may comment on the permit application by writing and specifically identifying errors or non-compliance with development standards.
- F. Response to comments.** If a comment is received, the Director of BDS will respond in writing or in a manner suitable to the comment. The response will specifically address each comment that concerns compliance with the development standards of Section 33.430.140 through .190. The Director of BDS will recheck permits for compliance with development standards and approve the permit if compliance is reaffirmed or when identified deficiencies are corrected, and when all applicable standards and regulations of the *Zoning Code* are met.



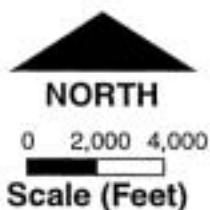
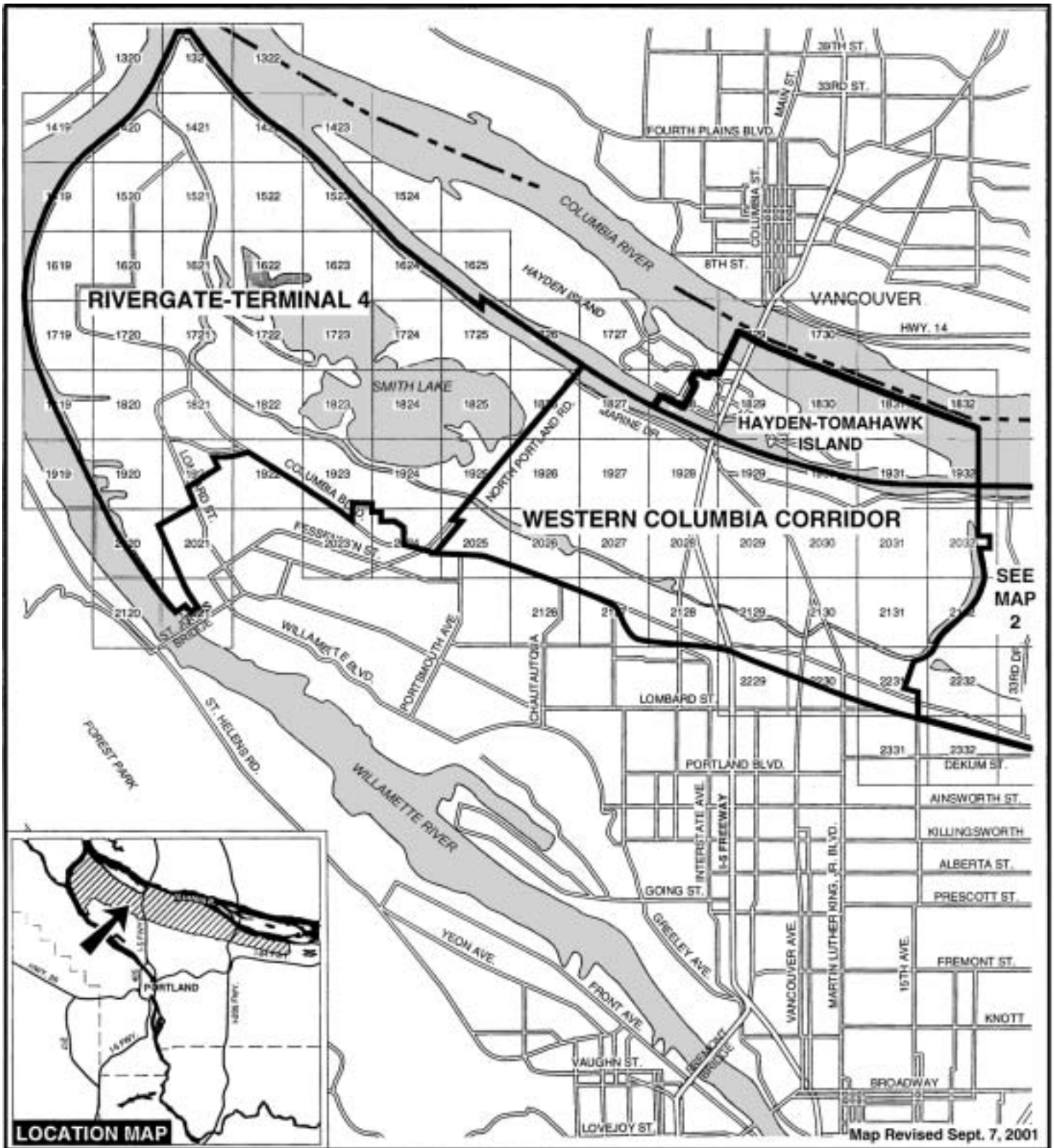


Map 430-1

# Balch Creek Watershed Protection Plan Area



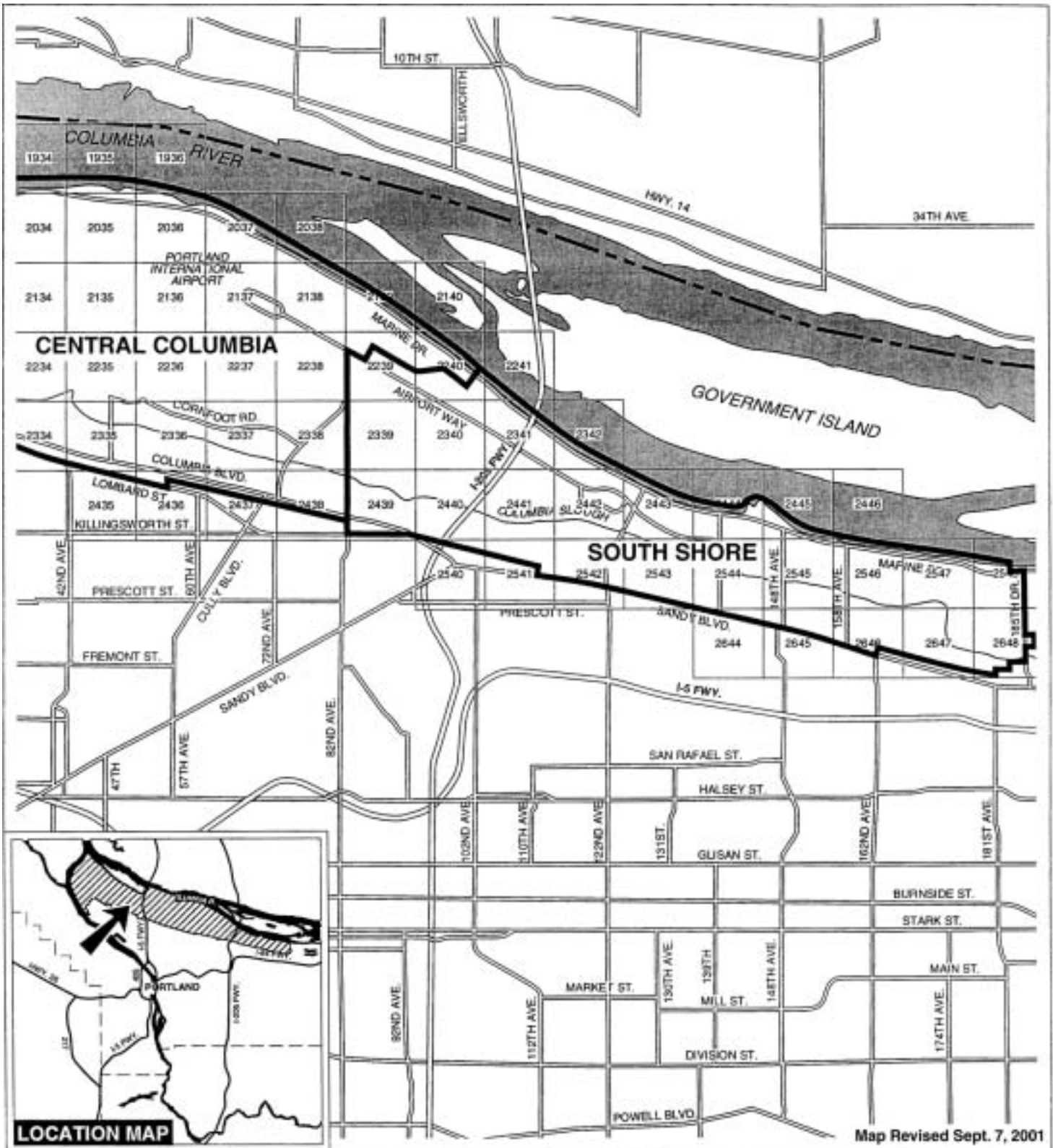
MAP NOTES: Small numbers within boxes represent quarter-sections.



# Map 430-2 Columbia Corridor Industrial and Environmental Mapping Project Area

Map 1 of 2

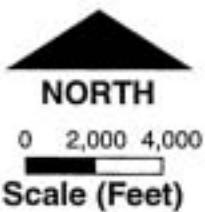
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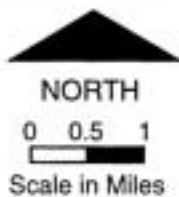
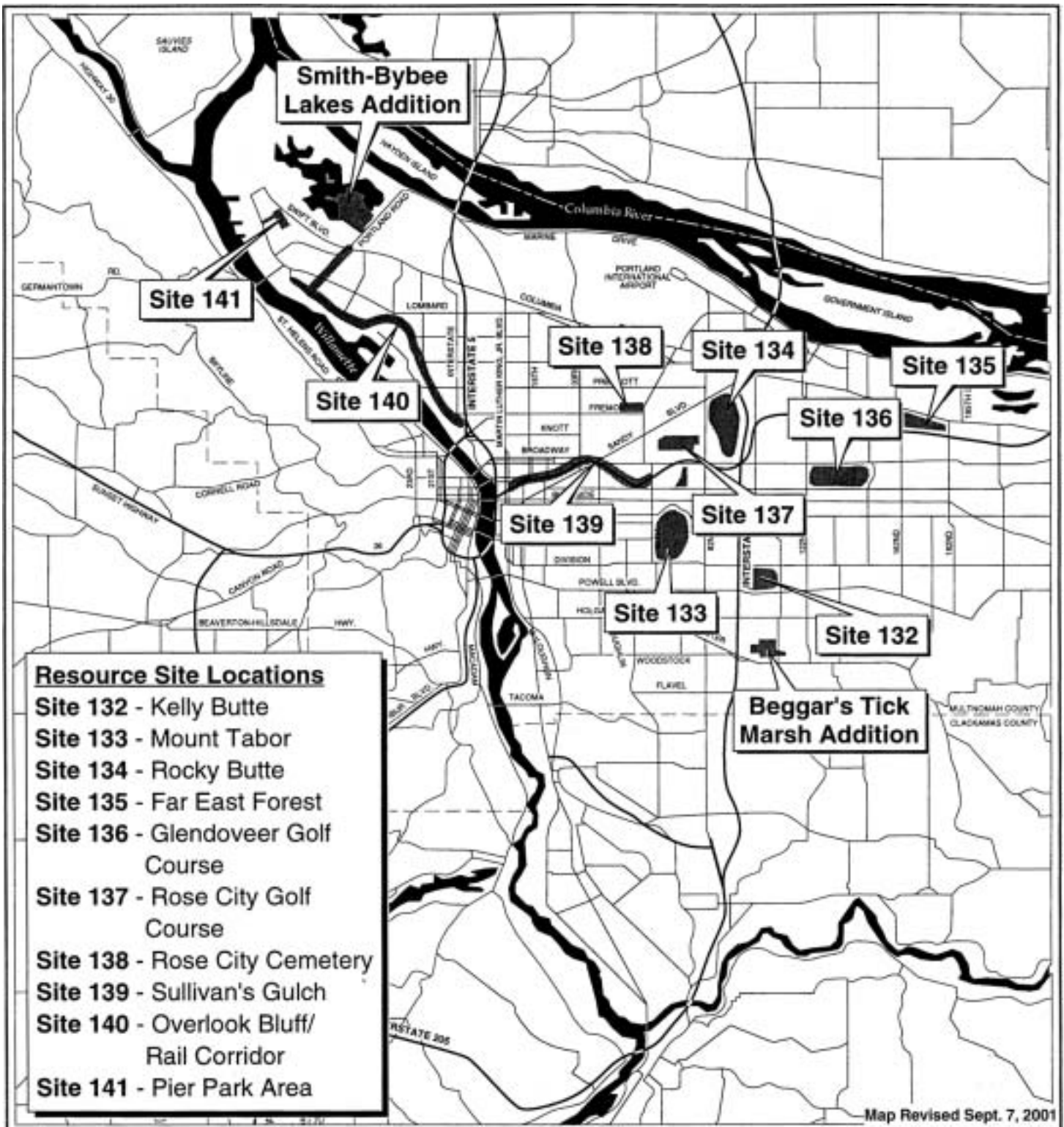
Map 430-2

# Columbia Corridor Industrial and Environmental Mapping Project Area

Map 2 of 2



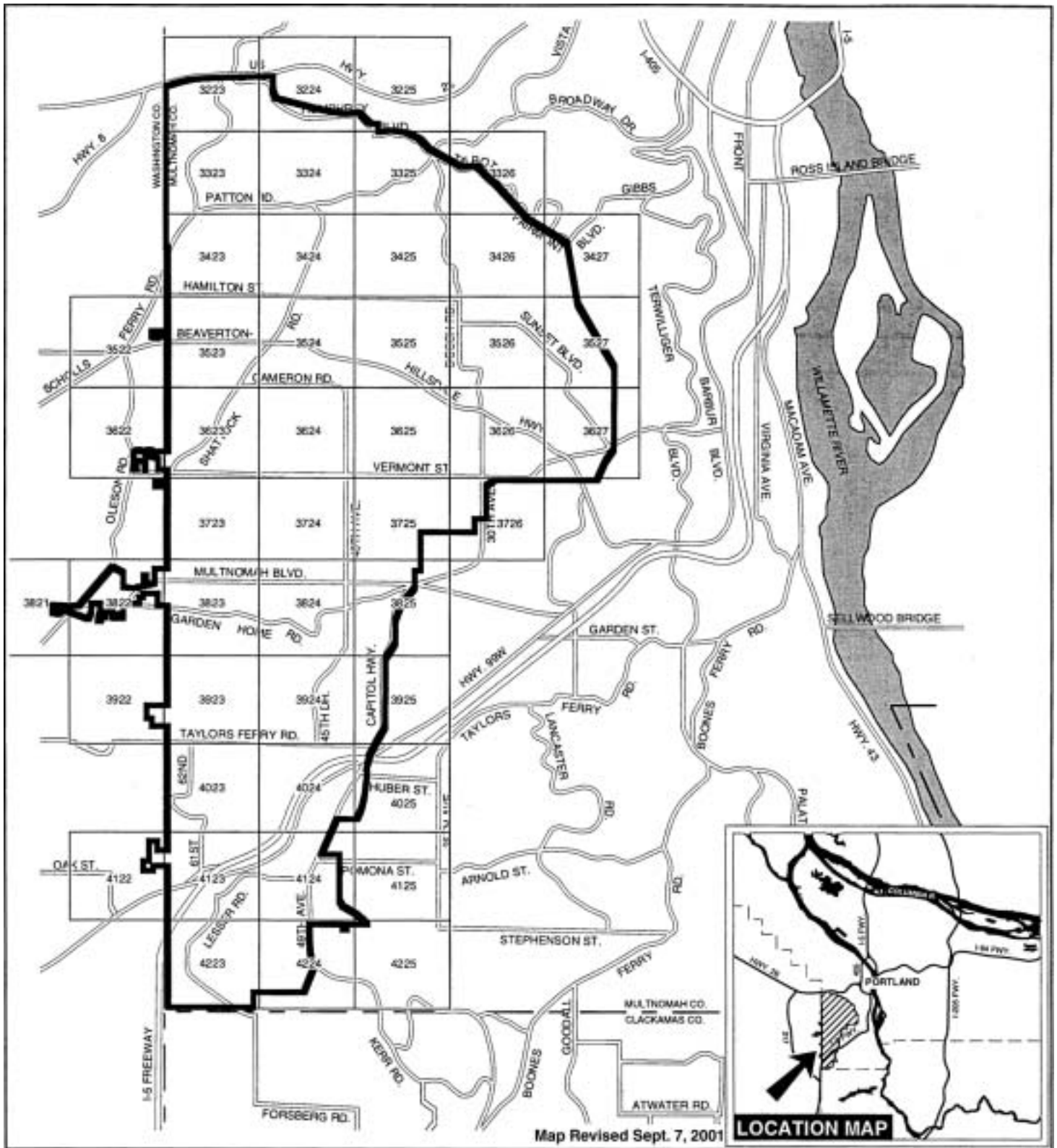
**MAP NOTES:** Small numbers within boxes represent quarter-sections.



  
Plan Areas

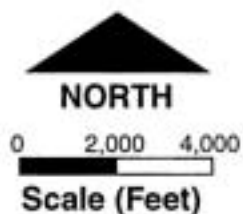
## Map 430-3

# East Buttes, Terraces and Wetlands Conservation Plan Area

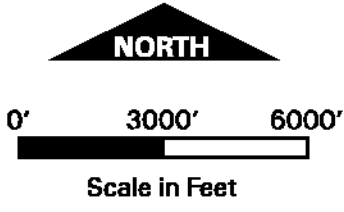
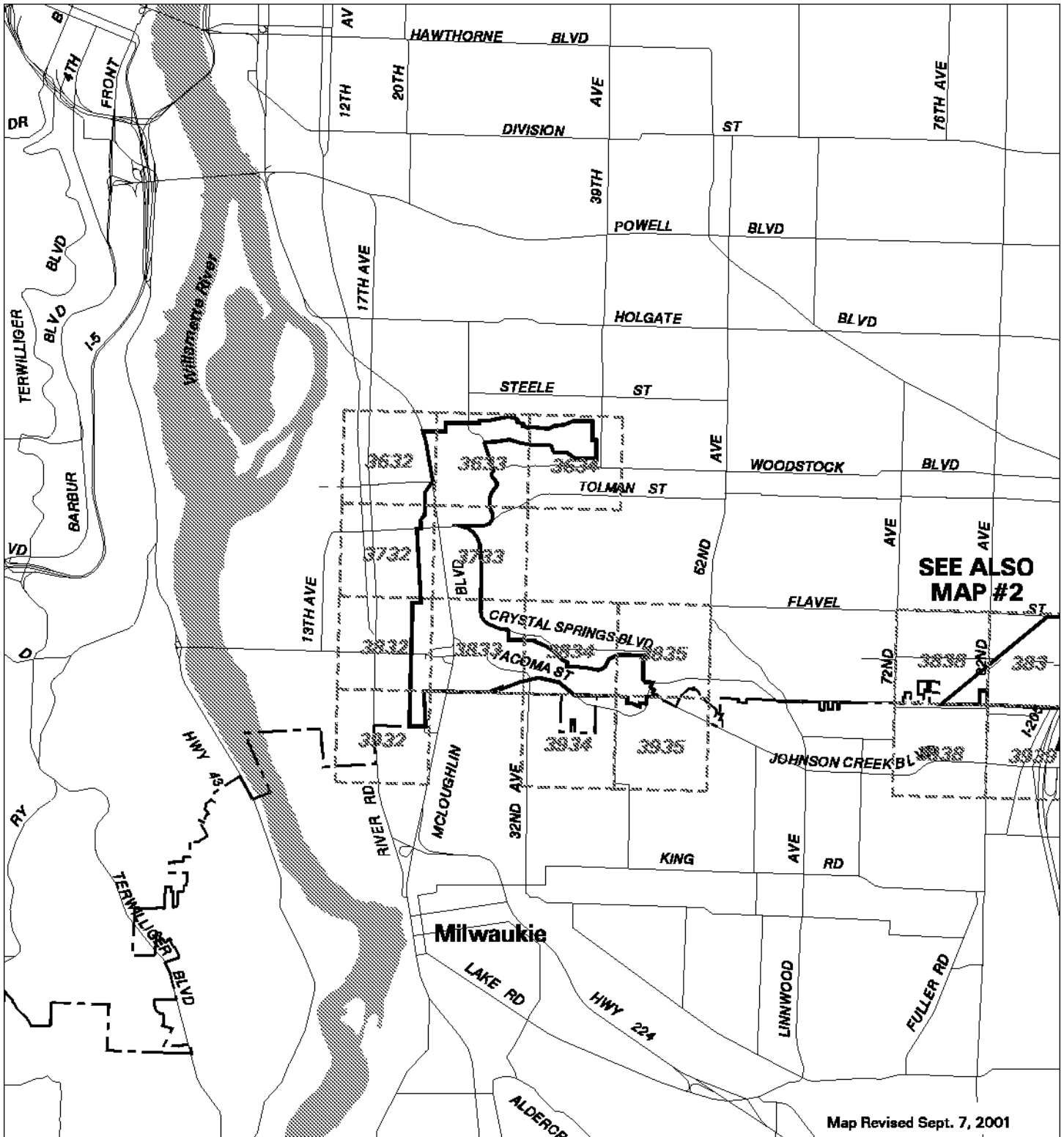


Map 430-4

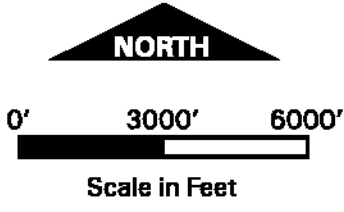
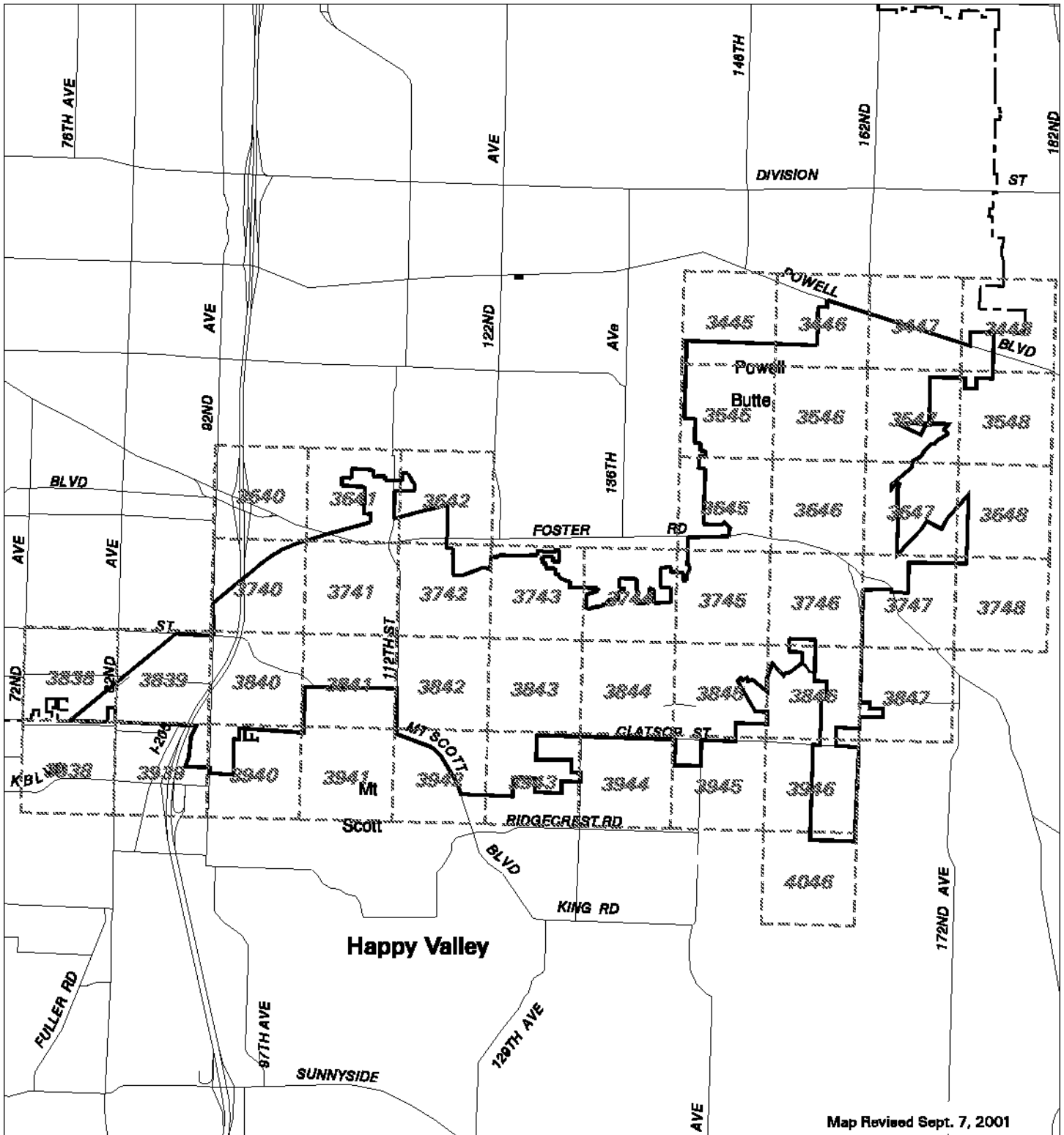
# Fanno Creek and Tributaries Conservation Plan Area



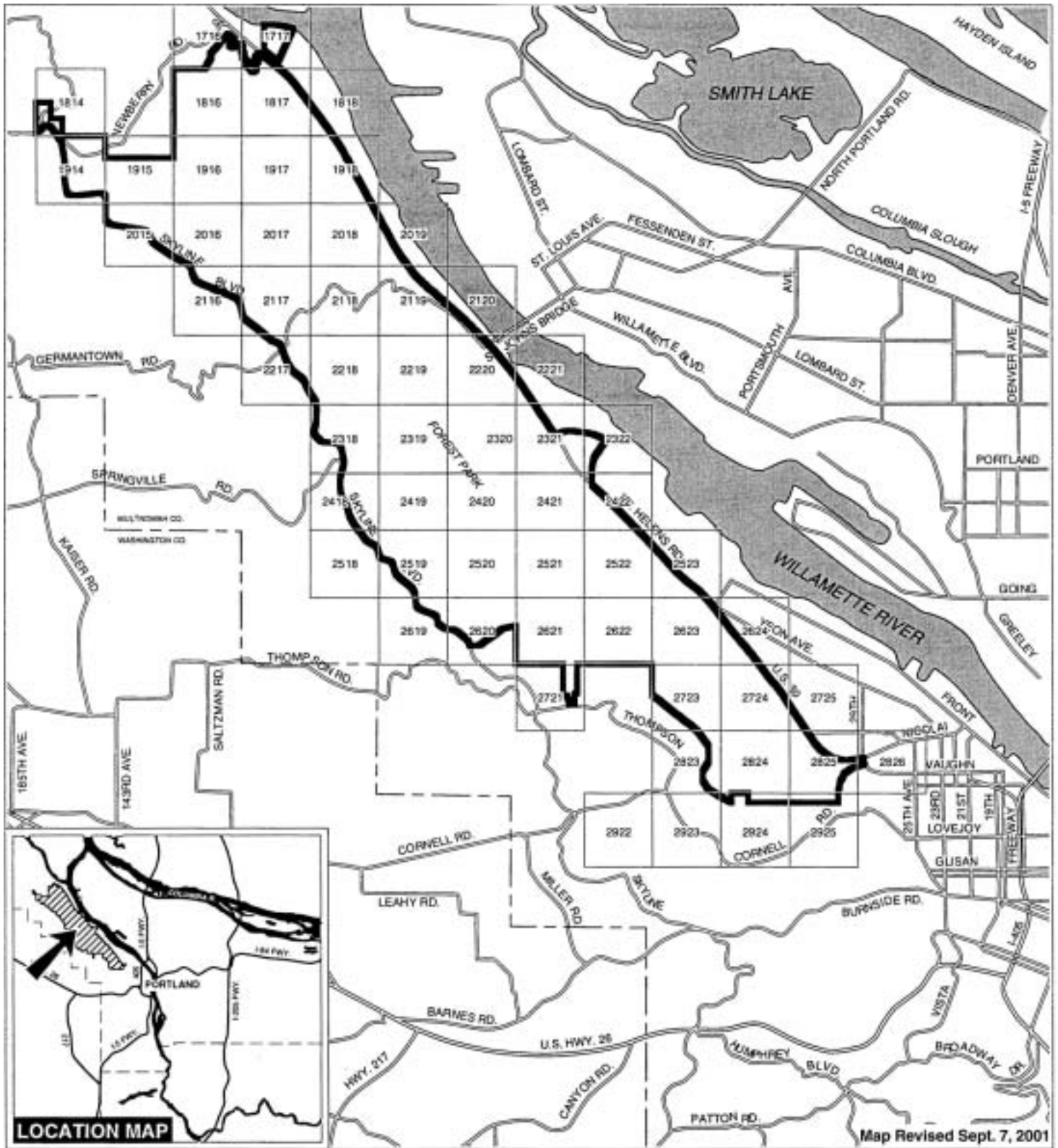
**MAP NOTES:** Small numbers within boxes represent quarter-sections.



**Map 430-5**  
**Johnson Creek Basin**  
**Protection Plan Area**  
 Map 1 of 2

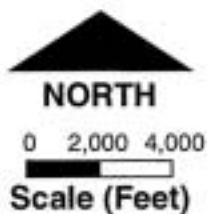


**Map 430-5**  
**Johnson Creek Basin**  
**Protection Plan Area**  
 Map 2 of 2

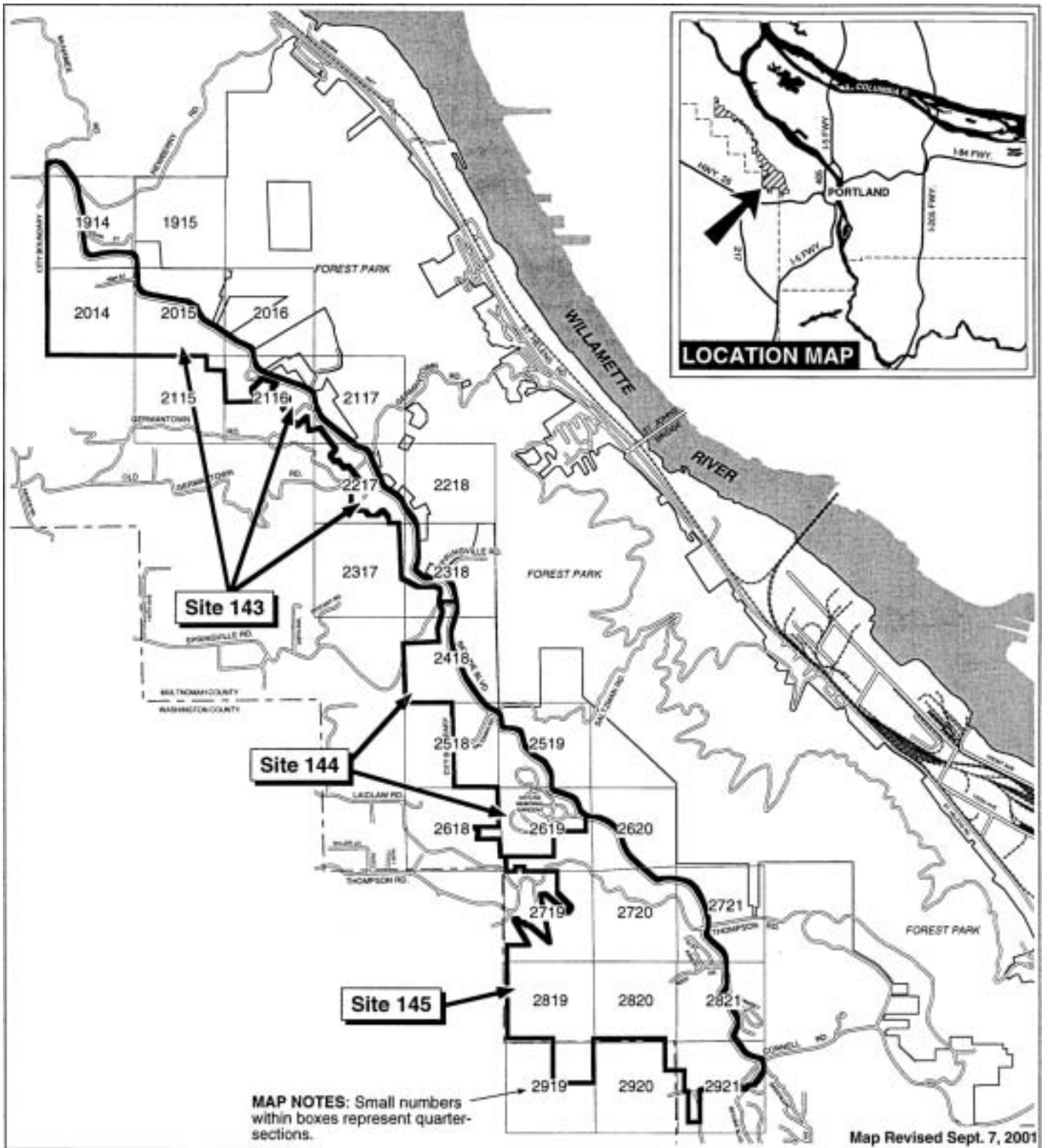


Map 430-6

# Northwest Hills Natural Areas Protection Plan Area

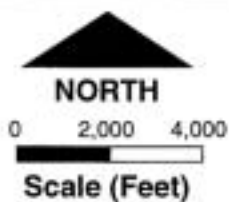


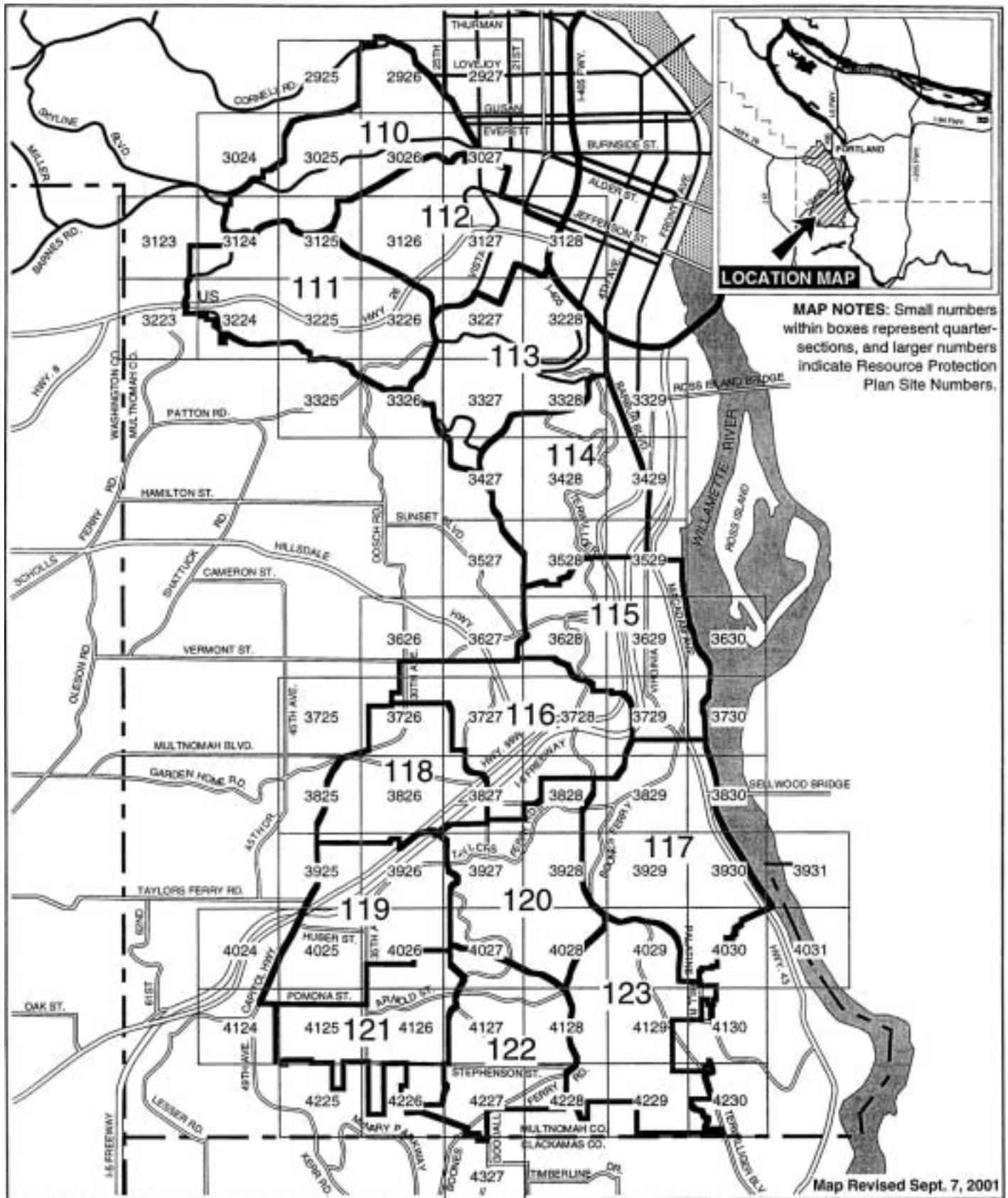
**MAP NOTES:** Small numbers within boxes represent quarter-sections.



Map 430-7

# Skyline-West Resource Protection Plan Area

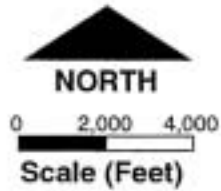




**LOCATION MAP**

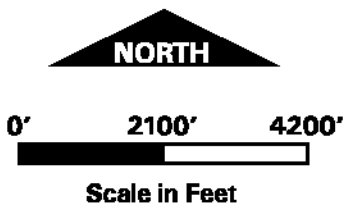
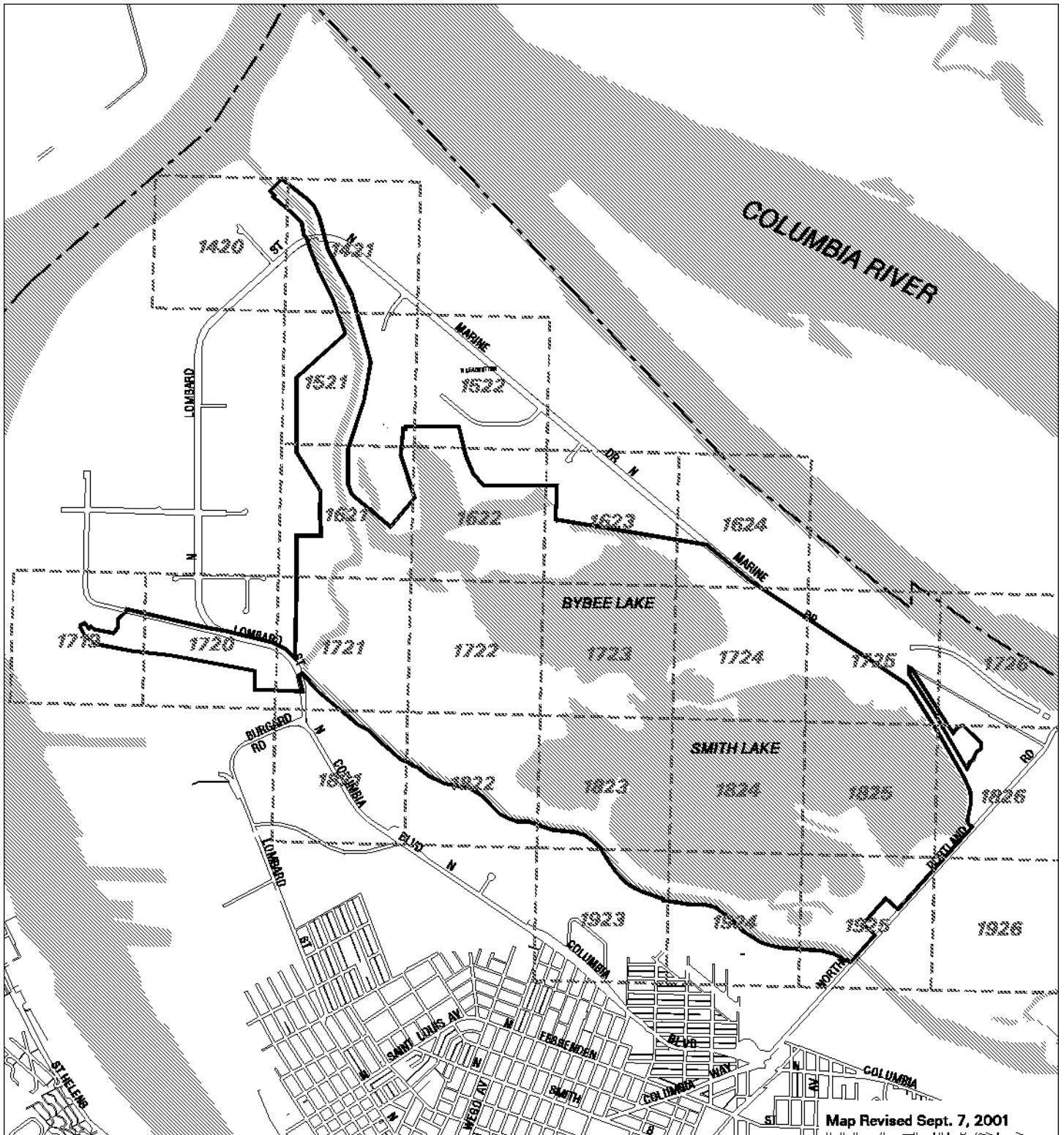
**MAP NOTES:** Small numbers within boxes represent quarter-sections, and larger numbers indicate Resource Protection Plan Site Numbers.

Map Revised Sept. 7, 2001

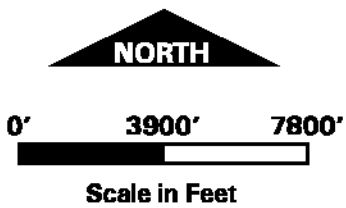
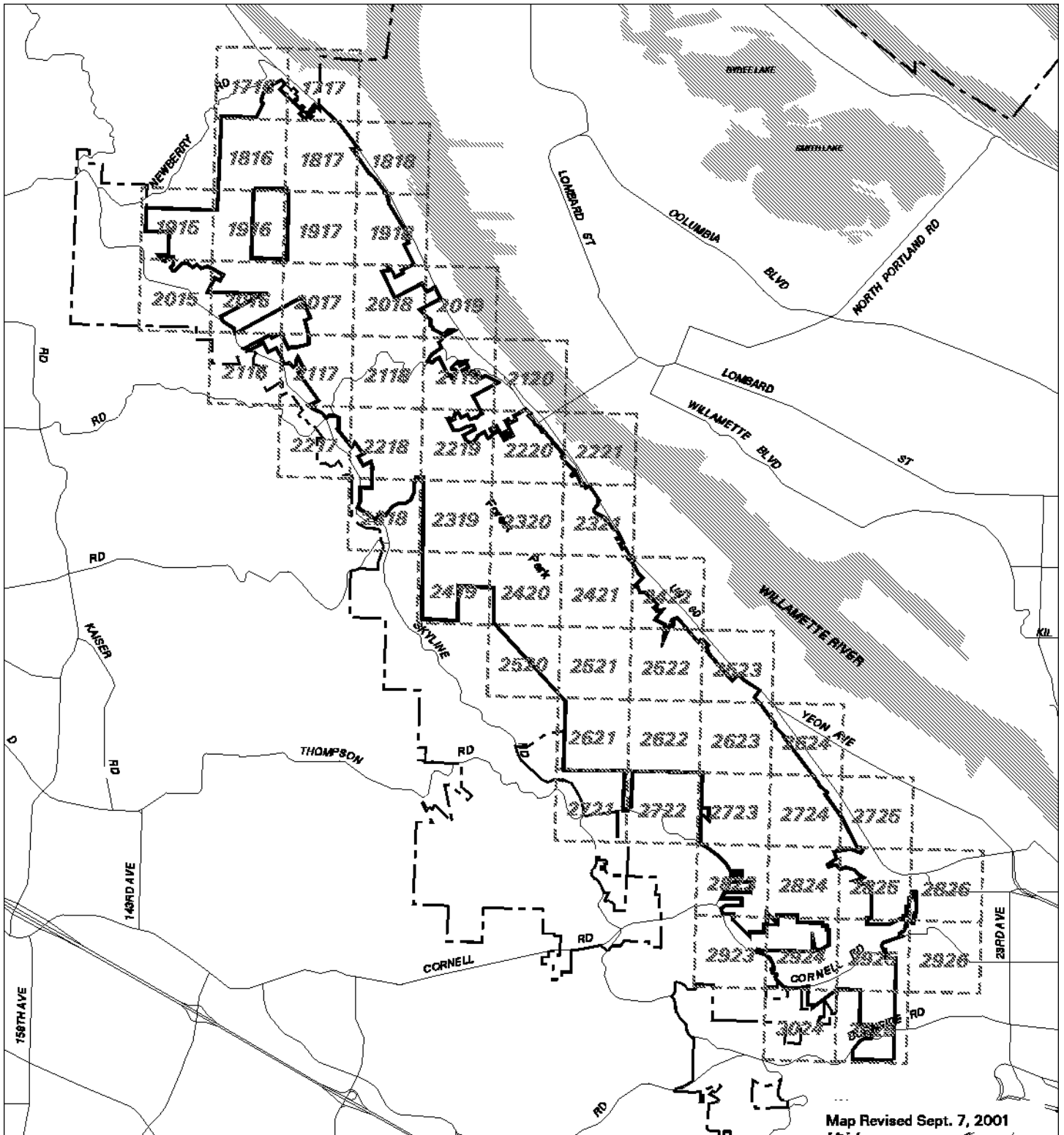


**Map 430-8**  
**Southwest Hills Resource Protection Plan Area**

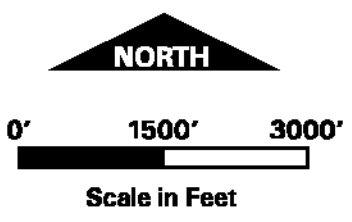
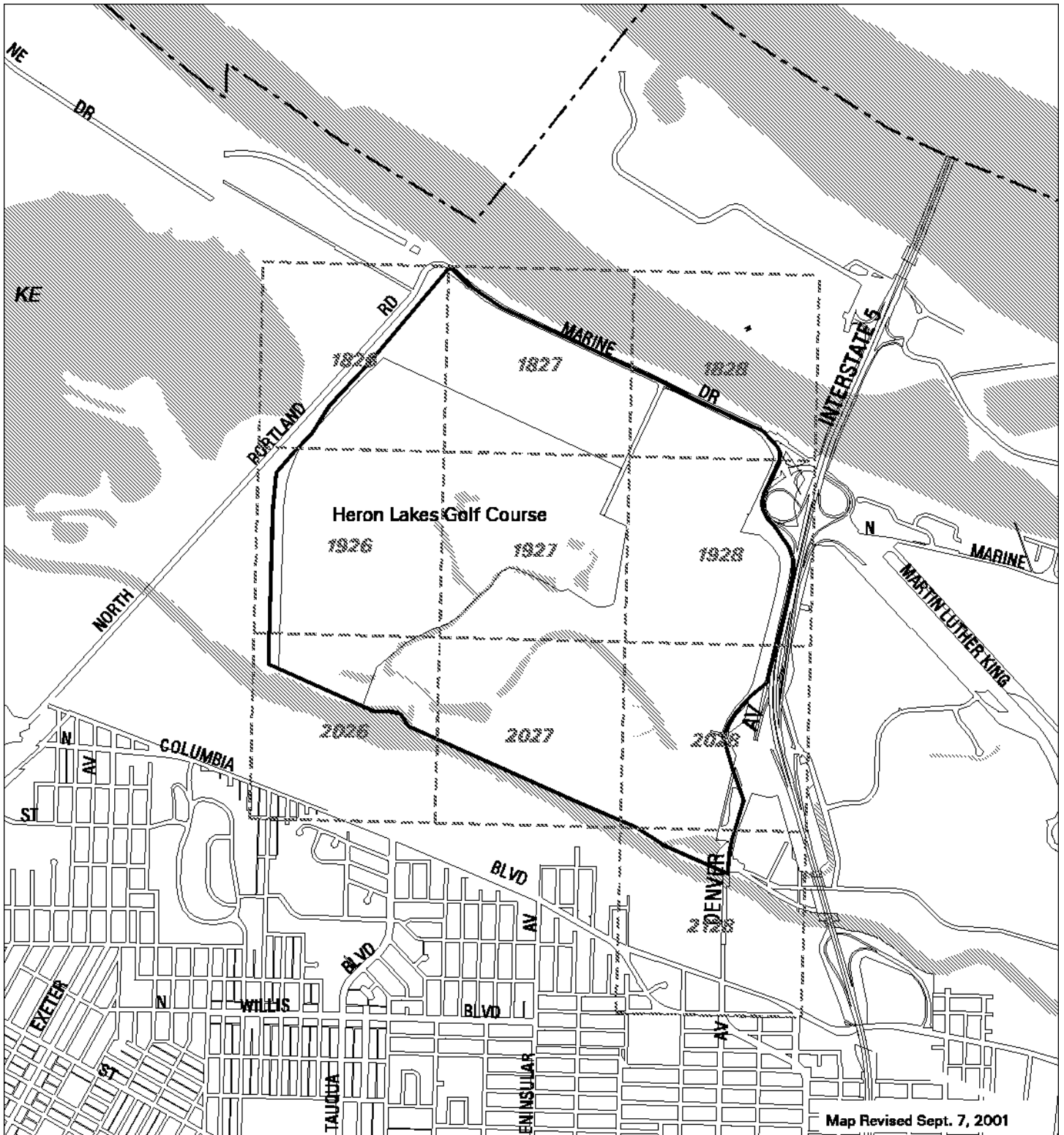




# Map 430-10 Smith and Bybee Lakes Natural Resource Management Plan Area



# Map 430-11 Forest Park Natural Resource Management Plan Area



# Map 430-12 Peninsula One Natural Resource Management Plan Area