CHAPTER 1.0

INTRODUCTION

1.1 BACKGROUND

The watercourses and wetland areas in the City are considered valuable natural resources due to the variety of aquatic and terrestrial species that these resources may support, and their function in conveying storm water and protecting water quality. The primary benefits that City watercourses provide to the community include:

IN THIS SECTION

- Hydrologic functions: conveying runoff, flood flows, and sediment transport, and providing principal areas for groundwater recharge;
- Water quality functions, including filtering pollutants;
- Biologic functions: providing habitat for terrestrial and aquatic species, for sensitive species, such as steelhead, California red-legged frog, Monarch butterfly, Cooper's hawk, and Yellow warbler, and corridors for wildlife movement;
- Aesthetic values; and
- Recreational opportunities, such as picnic areas and public access trails.

The value of these resources are recognized in existing City General Plan and Local Coastal Program (LCP) policies, which promote the preservation of riparian corridors and wetlands for habitat values and protection of water quality within the watercourses and their receiving waters, the Monterey Bay. Specifically, General Plan/LCP Environmental Quality policy 4.2.2 requires a development setback of 100-feet from watercourses or wetlands, but allows for exceptions when a management plan has been adopted and implemented that provides for protection of riparian and wetland resources and water quality. A management plan also must be approved by the Coastal Commission as part of the City's LCP for properties within the coastal zone. Absent a city-wide management plan, the City has no ability to implement the guiding policy requiring preservation and enhancement of riparian habitats, and individual property owners do not have the ability to feasibly request exceptions to the policy for development, where habitat values would not be compromised and enhancement is possible.

Additionally, the California Coastal Commission requested that the City clarify its policies and procedures pertaining to development activities in proximity to watercourses and wetlands and also requested that the City address watercourses as cohesive biological systems, rather than on a parcel-by-parcel basis. The *Management Plan* has been prepared with partial funding from the Coastal Commission (i.e., a Coastal Commission LCP Implementation Grant), which commissioned an inventory of the City's watercourses and wetlands and the development of recommendations for management of these resources. It is within this context of these guiding City policies and Coastal Commission requests that this *City-wide Creeks and Wetlands Management Plan* has been prepared.

1.2 CREEKS AND WETLANDS IN THE CITY OF SANTA CRUZ

The City of Santa Cruz encompasses approximately 12 square miles between the Monterey Bay and the Santa Cruz Mountains (see Figure 1-1). A total of 39 miles of watercourses occur within the City (see Figure 1-2), supporting riparian and wetland habitat and/or influencing storm water conveyance and water quality.

The San Lorenzo River, a major watercourse that originates in the Santa Cruz Mountains, traverses through the center of the City and forms a major physical feature of the region. The City also supports an array of other watercourses, ranging from numerous perennial, spring-fed streams on the west side of the City to intermittent streams located on the east side of the City. Some provide significant habitat values and are relatively unaltered. Others, however, have been altered as the City has developed, and have been incorporated into the urban landscape and storm water infrastructure.

Several coastal terraces within the City are known to support seasonal wetlands in the westernmost and easternmost portions of the City. Freshwater marsh habitat also occurs in the City, most notably at Neary Lagoon in the central part of town. The occurrence of salt and brackish water marsh habitat is limited to smaller areas, such as at Jessie Street Marsh, a tributary of the lower San Lorenzo River.

1.3 PURPOSE AND INTENT OF THE MANAGEMENT PLAN

1.3.1 Plan Purpose and Goals

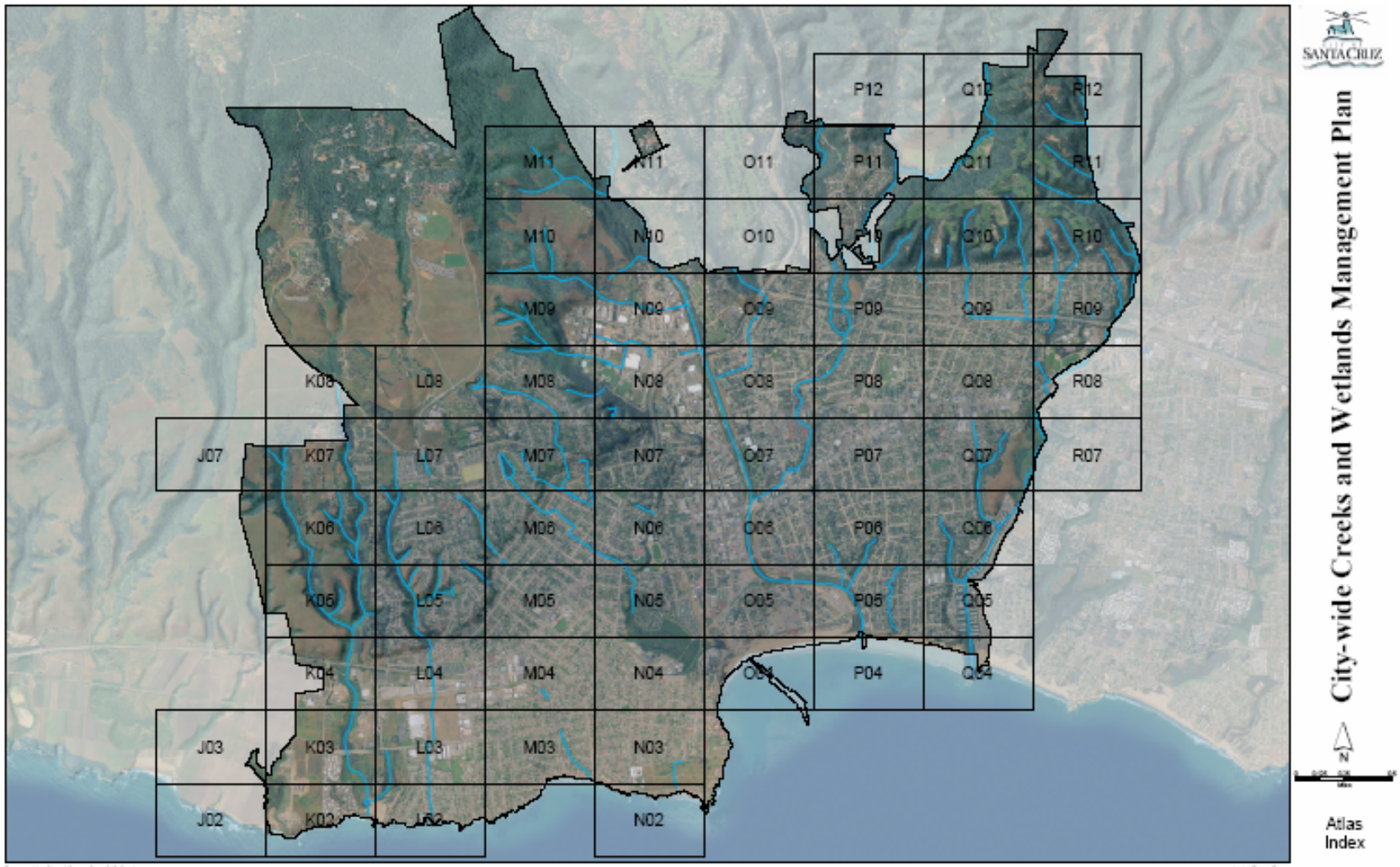
The purpose of the *Management Plan* is to identify and map the watercourses and known wetlands within the City limits, identify appropriate development setbacks, recommend management actions which promote the preservation of riparian and wetland resources, define development guidelines and standards for areas where development adjacent to watercourses may be appropriate, and provide a framework for permitting development adjacent to watercourses. The *Management Plan* presents a strategic approach to stream corridor management that is intended to result in better protection, enhancement, and management of the City's riparian and wetland resources and water quality, while providing consistency and predictability of the City's permitting process.

The following goals, derived from existing City General Plan/LCP goals and policies, were used in establishing development setbacks and management guidelines presented in the *Management Plan*:

- *Protect and enhance the existing natural resources of the watercourses and wetlands within the City;*
- *Recognize the presence of existing land uses that are consistent with current land use designations;*
- *Protect and improve water quality in the City's watercourses and wetlands;*
- *Protect and restore existing vegetated watercourses as wildlife movement corridors;*
- *Evaluate existing and/or potential resource values of the watercourse and wetland habitats and the type of land uses that exist and/or are expected under current zoning; and*
- *Provide incentives to landowners to improve the natural qualities of the City's watercourses and wetland areas.*

FIGURE 1-1. REGIONAL LOCATION MAP

FIGURE 1-2. WATERCOURSES AND WETLANDS WITHIN THE CITY OF SANTA CRUZ (INDEX MAP)



Plan Overview

The *Management Plan* consists of mapping of all City watercourses and wetlands with identification of the centerline the watercourse and delineation of a 100-foot setback that is required under existing City policies and regulations. Resource characteristics were inventoried for each watercourse reach, including stream or channel type, habitat type, extent of riparian vegetation, and wildlife considerations. The inventory was used to assess the existing habitat and hydrological values for each watercourse reach, as well as potential for habitat or water quality enhancement. The inventory was based on high resolution aerial photographs, a GIS database, review of existing resource studies, and biological and land use site inspections, where feasible. Land use patterns were also identified, including the average distance between the watercourse and existing development. The *Management Plan* did not address the drainage capacity or flooding potential of City watercourses and wetlands.

Based on an evaluation of biological, hydrological, and land use characteristics, the *Management Plan* recommends specific setback requirements and establishes a process for obtaining a watercourse permit for development within setback areas. For each section of watercourse in the City, the recommended setbacks include a *management area*, which is the area where watercourse regulations will apply; a *riparian corridor*, which is the area adjacent to the watercourse that includes riparian vegetation; and a *development setback* area, which is an area that provides a buffer between the riparian corridor and development. The *riparian corridor* is intended to provide an adequate riparian width to maintain or enhance habitat and water quality values, and the development setback is intended to provide an appropriate buffer between the riparian corridor and development.

New development would be allowed in the area between the *management area* boundary and the *development setback area*, subject to review and approval of a watercourse development permit by the City Zoning Administrator, provided development standards for watercourse protection are included in the project. Any development outside of the *management area* would not be subject to watercourse regulations. The *Management Plan* outlines the permit procedures for development and other uses proposed with a management area.

For wetlands and other unique areas of ponding water, the *Management Plan* identifies general acceptable uses and enhancement actions, but recommends further site-specific biotic review (as currently required), since detailed analysis or wetland delineations were not conducted as part of the preparation of this *Management Plan*. Appropriate setbacks would be developed as part of this site-specific review.

1.3.3 Plan Implementation

This *Management Plan* is intended to be a policy document, which is subject to the review and approval by the City of Santa Cruz Planning Commission and City Council. Adoption of the *Management Plan* will require amendments to the City's Zoning Ordinance. Adoption of the *Management Plan* and Zoning Ordinance amendments will also be subject to approval by the Coastal Commission as an amendment to the City's LCP upon which it will become part of the City's LCP. It should be noted that the adoption of the LCP and Zoning Ordinance amendments do not supersede other state or federal policies or regulations that may be applicable in watercourses or wetland areas. Agencies, such as California Department of Fish and Game (CDFG), retain their jurisdiction in these areas.

Following adoption of these amendments, landowners within the City, as well as City Departments, will be required to follow the approved *Management Plan* permit requirements and guidelines for issuance of City zoning, building and other applicable permits. The *Management Plan* recognizes that there are existing developments that do not meet the recommended standards set forth in this plan, and requirements and procedures for variances are provided. There may also be properties with previously approved management plans that may not meet the recommended standards. In such cases, recommendations for allowing these uses to be maintained are included. However, any new development would be required to meet the recommended standards (such as an addition to an existing dwelling).

1.3.4 Areas Subject to Other Management Plans

Pursuant to the City's General Plan/LCP Environmental Quality Policy 4.2.1 and Land Use Policy 3.4 (as discussed below) specific management plans have been developed and adopted for certain designated open space lands within the City. The provisions of this *Management Plan* provide recommended setbacks and/or requirements for additional biotic reviews for some areas, but do not supersede management policies and measures for riparian and wetland resources addressed in these other management plans. Existing management plans include: adopted plans for the portion of the San Lorenzo River within the City, Neary Lagoon, Antonelli Pond, Jessie Street Marsh, Lighthouse Field State Beach and Pogonip. The provisions of this *Management Plan* also do not apply to public lands that have pending or approved management plans that address riparian resources, which include interim management plans for the Moore Creek Preserve and the Arana Gulch . A complete index of approved or pending management plans and a summary of their policies and recommendations are included in Appendix H. For all City-owned public lands, the City shall work to minimize impacts upon downstream watercourses to the maximum extent possible.

1.3.5 Plan Organization

The *Management Plan* is organized as follows:

- Chapter 1.0 presents an overview of the scope of the *Management Plan*, as well as a summary of existing City policies and other state and federal regulations pertaining to watercourses and wetlands.
- Chapter 2.0 describes the methodology used to inventory watercourses and wetlands, and associated stream and habitat characteristics.
- Chapter 3.0 describes the evaluation process used to rank watercourses and wetlands based on the results of the inventory and consideration of existing land use pattern and setbacks. The chapter describes existing resources for each watercourse reach, as well as recommended setbacks.
- Chapter 4.0 defines development guidelines and the permit process recommended to implement this plan, including development standards and guidelines.
- The Appendices provide supporting resource and regulatory data, as well as erosion control, landscaping, and other management guidelines.
- Aerial photos are also provided under separate cover which visually depict original and revised setbacks. These photos can be viewed at the City Planning Department or on the City's website at www.ci.santa-cruz.ca.us.

1.4 PUBLIC MEETINGS AND INPUT

Public information meetings and public hearings were held during the course of preparation of the *Management Plan*, which are summarized below. At initial public information meetings, questionnaires were given to the public that asked for opinions on the management of watercourses and wetlands, allowable uses within these areas and the need for restoration and enhancement. The questionnaire responses and subsequent public comments were used to develop the Draft *Management Plan*.

May 2000 — Public Information Meeting: Introduction of the project scope and the watercourse and wetland classification system (discussed in Chapter 2.0) for public review and comment.

September 2000 — Public Information Meeting: Presentation of results of the data collected on the watercourses and wetlands, including information on the primary and secondary habitat features, stream channel types, wildlife resources, and mapped data for public review and comment.

January 2001 — Public Information Meetings: Two public informational meetings were held with the City Planning Commission and the City Council. Information on the primary and secondary habitat features, stream channel types, wildlife resources, and mapped data was presented for review and comment for members of the Planning Commission, City Council, and the public. Additional field surveys were conducted to update mapped data and revise habitat designations based on public comments.

Presentations on the scope and preliminary findings were also made to local groups, including to the Arana Creek Watershed Alliance and the San Lorenzo Urban River Plan Task Force at one of their regularly scheduled meetings.

April-May 2002 — Draft Plan and Public Workshop: A draft *Management Plan* was released for public review on April 23, 2002. A joint workshop was held on May 2, 2002 with the City Council and Planning Commission to provide information on the draft recommendations and mapping system, and to provide an opportunity for comments.

2002 — Planning Commission Public Hearings. Public hearings were held with the Planning Commission on May 16, June 6, July 11, and September 26, 2002. One of the major issues brought up by the public was that many people did not realize until the public hearings that their properties are currently regulated. Many people were also concerned with the setbacks that were proposed within such an urban area.

At the September 26th meeting, the Planning Commission recommended that the modifications recommended by staff and others through public comment be made, especially re-evaluation of the recommended development setbacks. The Commission also requested that the City Council provide support and resources for neighborhood community workshops and that staff bring the item back to the Planning Commission when the re-evaluation and other modifications were completed.

As part of the re-evaluation, staff utilized aerial photos enlarged to a greater scale than those originally used, and conducted a more detailed analysis of existing development. A field review of each segment (or reach) of all watercourses followed, reviewing as many private properties as possible to gain access to the reach areas that were not previously evaluated in any level of detail. In this manner, an appropriate level of field review was conducted to ensure that recommended *riparian corridor* and *development setback* areas (discussed in detail in Chapter 3.0) are realistic and feasible, given the location of existing development and the intent to meet General Plan goals.

January 7, 2003 — City Council Public Hearing. The City Council directed staff to conduct a re-evaluation of the watercourses in the City, and, if appropriate, update the recommendations for setbacks to development. Council also directed staff to conduct neighborhood workshops to go over the results of the re-evaluation and the recommendations developed by staff.

March 2004 — Public Workshops. After the re-evaluation was completed, two public workshops were held on March 15 and 29, 2004. Staff presented the revised setback recommendations in a new mapped format and discussed what adoption of the *Management Plan* would mean to property owners in terms of permit procedures. Although there were still some concerns expressed by the public regarding the *Management Plan*, in general it seemed that many peoples' concerns had been addressed.

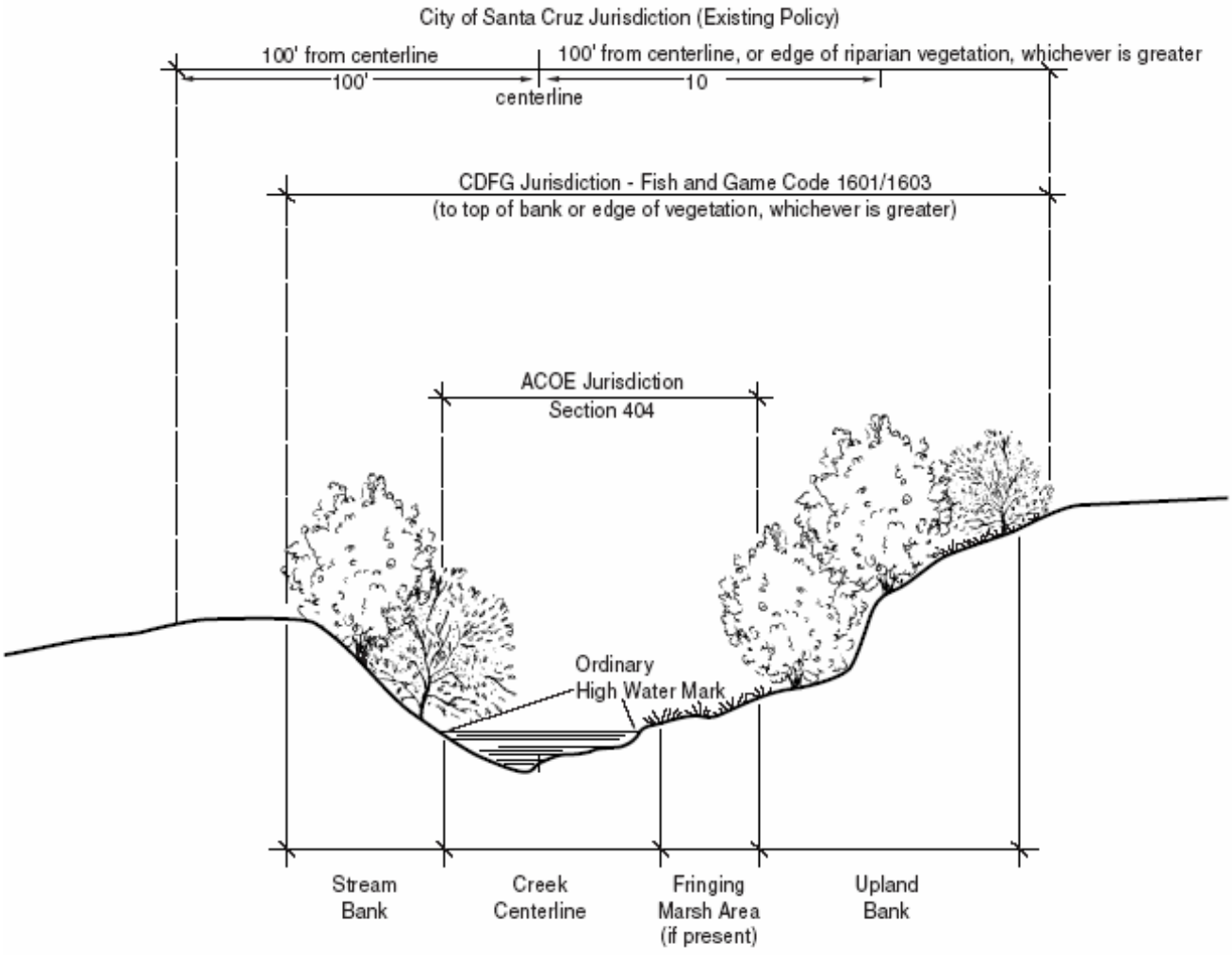
1.5 SUMMARY OF EXISTING CREEK AND WETLAND POLICIES AND REGULATIONS

A number of City General Plan/LCP goals, policies and programs relate to watercourses and wetlands, and to the biotic resources for which they provide habitat. Riparian vegetation, wetlands and special status species are also protected by federal and state laws, in addition to the City's local policies and ordinances. Relevant City, federal and state policies and regulations pertinent to watercourses and wetlands are summarized in this section. Figure 1-3 depicts jurisdictional areas that are applicable to the *Management Plan*. Appendix G lists the City's General Plan/LCP policies pertaining to riparian and wetland areas; those most pertinent to the *Management Plan* are discussed below. Appendix F provides greater detail of federal and state regulatory programs.

1.5.1 City General Plan / Local Coastal Plan Policies

Environmental Quality Policy 4.2.2. *Minimize the impact of development upon riparian and wetland areas through setback requirements of at least 100 feet from the center of a watercourse for riparian areas and 100 feet from a wetland. Include all riparian vegetation within the setback requirements, even if it extends more than 100 feet from the watercourse or if there is no defined watercourse present.*

FIGURE 1-3. JURISDICTIONAL AREAS



SOURCE: Biotic Resources Group, 2001

This policy requires that a 100-foot development setback be maintained from the centerline of all streams and/or the edge of all wetland areas, and also requires all riparian vegetation to be included in the setback even if it extends beyond 100 feet from the centerline of a stream. Subsections of this policy prohibit the construction of main or accessory structures, grading or removal of vegetation within the riparian and wetland resource and buffer areas (i.e., the 100-foot setback) unless such actions are consistent with an adopted management plan (EQ Policy 4.2.2.3). Exceptions are only allowed if consistent with an adopted management plan.

Prior to adoption of this *Management Plan*, development within the 100-foot setback was only permitted for vacant parcels with no buildable area outside of that setback (only to avoid a "regulatory taking") if a biotic report and a site-specific management plan was prepared and implemented to protect riparian resources and water quality to the maximum extent feasible. Within the coastal zone, the adoption of site-specific management plans must also be approved by the Coastal Commission as an LCP Amendment. Preparing individual management plans on a parcel-by-parcel basis does not treat riparian corridors and water bodies as integrated ecosystems. Moreover, it has been considered by some to be inefficient and excessively burdensome to require individual property owners to prepare management plans and process LCP amendments if they are in the coastal zone. Generally, existing developed lots could not redevelop or construct additions within the 100-foot setback area. Additionally, those wishing to enhance the resource values of their watercourses must also follow a similar process. Consequently, without the ability to adequately manage the watercourses, their value as habitat, and function for water quality enhancement has declined in many cases.

> Environmental Quality Goal EQ 2. *Protect the water quality of the ocean, watershed lands, surface waters and ground water recharge areas from sedimentation, pollution and salt-water intrusion.*

This is the primary water quality goal in the City General Plan/LCP. Policies and programs identified to meet this goal specify that new development or land uses near surface water (and groundwater recharge areas) must not degrade water quality (EQ Policy 2.3). Subsections of this policy require developments to minimize lot coverage and impervious surfaces, limit post-development runoff to pre-development volumes and incorporate storm drainage facilities that reduce urban runoff pollutants (EQ Policy 2.3.1). Existing water quality policies require low-flow velocity, vegetated open channels and other recharge or detention structures connected to impervious surfaces (EQ Policy 2.3.1.3). Existing policies also require all parking lots, roads and other surface drainages that will flow directly into coastal waters to have oil and grease traps (EQ Policy 2.3.1.5). Policy EQ 2.4 also requires the City to evaluate the water quality of natural springs and streams in the City and devise strategies to protect and restore these areas.

> Environmental Quality Goal EQ 3. *Preserve agricultural and grazing lands and control erosion and siltation to reduce loss of valuable soils, damage to water resources and biotic resources, and potential hazards.*

This is the primary goal relative to soils in the City General Plan/LCP. Policies and programs require site design and erosion control measures adjacent to streams and wetland areas to minimize grading activities and vegetation removal (EQ Policy 3.1). A subsection of this policy prohibits grading and earth disturbance during wet winter months (EQ Policy 3.1.2), except under certain circumstances. Subsections of EQ Policy 3.2 prohibit development on slopes greater than 50 percent and generally require minimum 20-foot setback from slopes over 30 percent; in no instances can the setback be less than 10 feet from the top of the slope. These

policies are relevant to this *Management Plan* as the outer edge of riparian vegetation often can correspond to the top of a slope. Additionally, these policies address the need for erosion control measures to limit sedimentation in watercourses.

> Environmental Quality Goal EQ 4. *Protect and enhance natural vegetation communities and wildlife habitats throughout the City.*

This is the primary goal addressing biotic resources in the City General Plan/LCP. Policies and programs identified to meet this goal specify the preservation and enhancement of the character and quality of riparian and wetland habitats (EQ Policy 4.2). Subsections of this policy require the development, adoption and implementation of management plans for City-owned wetland and riparian areas and for other resource areas where ownership is fragmented (EQ Policy 4.2.1) and, as discussed above, a minimum 100-foot setback from the centerline of creeks and wetlands (EQ Policy 4.2.2), unless a management plan is adopted (EQ Policy 4.2.2.3).

Relative to this *Management Plan*, other existing biotic resource policies require that increased runoff into riparian and wetland areas be minimized, unless biological evaluations recommend otherwise (EQ Policy 4.2.3) and existing riparian and wetland vegetation be preserved (EQ Policy 4.2.4). This policy also allows passive recreational uses within riparian and wetland areas, maintenance of existing uses and removal of invasive, non-native plants when there is an adopted management plan and compensating mitigation. Existing policies also require the protection and minimization of development impacts on bird, fish and wildlife habitat in and adjacent to waterways (EQ Policy 4.2.5), protection of rare, endangered, sensitive and limited species (EQ Policy 4.5), protection of monarch butterfly overwintering sites, including ensuring an adequate buffering of these sites from development (EQ Policy 4.5.3), and encouragement of restoration of native vegetation and other revegetation efforts where plants or habitats are diseased or degraded (EQ Policy 4.6).

> Land Use Goal L 3. *Protect the quality of, and prevent significant new incursion of urban development into, areas designated as open space or agricultural lands and provide, when possible, permanent protection of these lands, recognizing their value in inhibiting urban sprawl and maintaining City identity, as a natural resource with significant biotic resources and/or their potential for providing scenic, recreational and educational enjoyment.*

The General Plan/LCP Land Use Element contains a goal relative to the protection of designated open space or agricultural lands in the City. Policies and programs to meet this goal require the City to work with landowners, agencies and organizations to pursue long-term acquisition and/or maintenance of natural areas (LU Policy 3.1). Since the adoption of the General Plan/LCP, virtually all of these designated properties are now in public ownership. Subsections of this policy include provisions requiring development adjacent to natural areas to be compatible with these lands (LU Policy 3.3). Land Use Policy 3.4 requires the development, implementation and maintenance of updated management plans for natural areas, specifically Jessie Street Marsh, Arana Gulch, Lighthouse Field, San Lorenzo River, Pogonip, Arroyo Seco, Moore Creek, Neary Lagoon, Antonelli Pond, Natural Bridges Marsh and portions of DeLaveaga Park. A complete index of approved or pending management plans and a summary of their policies and recommendations are included in Appendix H.

1.5.2 City Zoning Ordinance Regulations

The City's Zoning Ordinance contains regulations pertaining to watercourses and wetlands that are the key components of the existing regulatory process in the City. Relevant regulations are summarized below.

Section 24.14.080 Intermittent/Perennial Streams, Wetland Areas, Wildlife Habitats and Plant Communities: Section 3a and b. Prohibited Uses: Intermittent/Perennial Streams, Wetlands, Marshes and Seasonally Flooded Grasslands.

> *Construction of main or accessory structures, grading, or removal of vegetation shall not be permitted in any designated riparian area or within 100 feet from the center of a watercourse (as identified in subsection (1)(a)), or within 100 feet of a wetland (as identified in subsection (1)(b)), except as provided in Section 4a, b, and c.*

As specified in subsection 4a-e, allowed uses generally include:

- Maintenance and replacement of existing public works facilities (such as pipes, cables, lines or access ways);
- Maintenance and restoration of previously dredged existing flood control channels, pursuant to an approved management plan;
- Pervious, non-motor-vehicular trails;
- Small-scale facilities associated with nature study or other similar resource-dependent activities;
- Construction, grading or removal of vegetation necessary for maintenance of existing improvements;
- Landscaping designed to provide a natural buffer;
- Passive recreation; and
- Habitat preservation and restoration.

Within wetlands, marshes and seasonally flooded grasslands, construction, grading or removal of vegetation shall only be permitted in wetlands and within the required setback where a restoration/management plan has been submitted and approved and construction and/or the use is consistent with the approved plan. Section 4d permits construction, grading or vegetation removal within wildlife habitats and plant communities where existing vegetation is preserved to the maximum extent possible, the integrity of the area as habitat is not compromised, and landscaping is designed to provide a natural buffer and provide native food-bearing plant species to the greatest extent feasible. This section also requires that if protected species are present, applicable permits must be obtained from state or federal agencies. Section 4e requires the preservation of existing vegetation, trees or tree stands and a requirement that replacement vegetation be provided if the removal of vegetation is unavoidable.

Section 24.14.050 Drainage Control: Sections 1 through 3 of this ordinance require the preparation of drainage plans and erosion control plans for most developments. These plans specify that roof drains be discharged to avoid erosion and that storm drainage runoff from project development be minimized. Devices such as detention basins, percolation ponds or sediment traps may be required. If storm drainage is discharged into a natural watercourse, the drainage plan shall include methods to safeguard or enhance existing runoff quality. Implementation of erosion control measures is also required to ensure that disturbed areas are treated to avoid or minimize erosion.

1.5.3 City Storm Water Management Regulations

Urban runoff and other "non-point source" discharges are regulated by the 1972 federal Water Pollution Control Act Amendments, commonly known as the Clean Water Act (CWA) through the National Pollutant Discharge Elimination System (NPDES) permit program. The City of Santa Cruz (City) has developed a comprehensive Storm Water Management Program (SWMP) in order to fulfill the requirements for the Phase II NPDES General Permit for Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems (General Permit) and in order to reduce the amount of pollutants discharged in urban runoff. In compliance with the federal regulations, the City's comprehensive SWMP is designed to protect water quality by reducing the discharge of pollutants to the storm drain system and receiving waters. The SWMP includes six required control programs and two recommended control programs for industrial facilities and commercial facilities, that taken together provide construction and operational "best management practices" to protect water quality. The measures are included within section 16.19 of the City Municipal Code.

1.5.4 Federal Regulations

The primary federal law pertaining to watercourses and wetlands include is Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. Areas meeting the regulatory definition of "Waters of the United States" are subject to the jurisdiction of the U.S. Army Corps of Engineers (ACOE) under either of these two sections. These waters may include all waters used for interstate commerce and all other waters, such as rivers, streams, natural ponds and other impoundments of waters along watercourses. Currently, the placement of fill in such waters must comply with permit conditions of the ACOE and permits must be obtained prior to initiation of construction.

The federal Endangered Species Act (FESA) of 1973 (as amended) and the Migratory Bird Treaty Act (Title 50, Code of Federal Regulations [CFR] Section 10.13) also regulate wildlife that may occur within creek and wetland habitats. The FESA, administered by the U.S. Fish and Wildlife Service (USFWS), prohibits the direct and indirect killing of federally listed species (referred to as a "take"), as well as alteration of their required habitat. The National Oceanographic and Atmospheric Administration (NOAA) Fisheries administers the FESA for anadromous fish and marine animals. Under the Migratory Bird Treaty Act, it is unlawful to "take, import, export, possess, buy, sell, purchase or barter any migratory bird." "Take" is further defined to include "pursuing, hunting, shooting, poisoning, wounding, killing, capturing, trapping, or collecting" (50 CFR Section 10.12).

Both listed and proposed species receive special consideration by the USFWS and NOAA during the environmental review of a project. For the "take" of a federally listed fish or wildlife species, an "incidental take" permit is required pursuant to consultation with USFWS and NOAA Fisheries, as appropriate. Although non-listed, proposed species have no statutory protection, projects affecting these species are reviewed by the agency to avoid delays in the late stages of a project should a proposed species become listed before a project is implemented and to possibly avoid impacts that may lead to the future listing of a species. Federal species known or potentially likely to occur, along or adjacent to City watercourses and wetlands are summarized in Chapter 2.0 and further described in Appendix J.

1.5.5. State Regulations

The California Department of Fish and Game (CDFG) regulates activities that result in the diversion or obstruction of the natural flow of a stream or actions that change the bed, channel or bank (including vegetation). Fish and Game Code section 1602 require landowners to enter into a Streambed Alteration Agreement with CDFG prior to any work in a watercourse. The state Water Quality Control Board also requires permits for work within wetlands and rivers and for discharge into rivers, under Section 401 of the Clean Water Act. This state permitting process is coordinated by the Regional Water Quality Control Board (RWQCB).

State laws on biological resources are similar to federal laws. The California Endangered Species Act (CESA) also prohibits the take of a state listed endangered or threatened species. CESA does not have specific provisions regarding protection of the habitat of listed species; however, destruction of nesting, breeding, rearing and foraging habitats necessary to maintain a viable breeding population of state-listed species has been included as an interpretation of take. The CDFG administers the CESA. The CDFG also recognizes "species of special concern" and "special animals" as those taxa that are biologically rare, limited in geographic distribution or associated with a declining habitat. These animals have no statutory protection but are considered to be on a "watch list" and usually receive special consideration during the environmental review process of a project. State special status species known or potentially likely to occur, along or adjacent to City watercourses and wetlands are summarized in Chapter 2.0 and further described in Appendix J.

The California Native Plant Society (CNPS) also maintains lists of plant species that are rare and often considered during the state environmental review process. The CNPS List 1B plants are defined as those that are rare, threatened or endangered in California or elsewhere. Although the CNPS maintains other "watch" lists of plants, usually only the plants on List 1B are given special consideration by CDFG during environmental review. Refer to Section 2.2 for species applicable to the *Management Plan*.

The CDFG Code also protects nesting raptors. The code requires protection of active raptor nests from disruption during nesting activity and until the young have fledged (i.e., left the nest).