ORDINANCE NO. \_\_\_\_\_\_\_\_\_\_\_

# AN ORDINANCE OF THE COUNTY OF SISKIYOU

# ADOPTING SECTIONS 5-14.01 THROUGH 5-14.02 OF CHAPTER 14 OF TITLE 5

# OF THE SISKIYOU COUNTY CODE

# REGARDING OPTING IN TO THE SISKIYOU COUNTY INTEGRATED SOLID WASTE MANAGEMENT REGIONAL AGENCY’S EDIBLE FOOD RECOVERY ORDINANCE

THE BOARD OF SUPERVISORS OF THE COUNTY OF SISKIYOU ORDAINS AS FOLLOWS:

SECTION I: Sections 5-14.01 through 5-14.02, of Chapter 14, of Title 5 are hereby adopted to read as follows:

Section 5-14.01. Purpose and Findings

(a)Whereas,the purpose of this Ordinance is to comply with certain state laws requiring cities, counties, and special districts providing solid waste collection services to adopt ordinances and take other measures to reduce the amount of organic materials deposited in landfills, more specifically the Short-Lived Climate Pollutants Organic Waste Reduction regulations adopted pursuant to Senate Bill 1383 (Statutes of 2016) set forth in the California Code of Regulations (the “SB 1383 Regulations”); and

(b) Whereas, Siskiyou County is a member of the Siskiyou County Integrated Solid Waste Management Regional Agency (“SCWMA”). The SCWMA is a joint powers agency comprised of all the cities in Siskiyou County (hereinafter “Cities”) and Siskiyou County; and

(c) Whereas, the SB 1383 Regulations require cities, counties, and special districts providing solid waste collection services to adopt and enforce an ordinance or other enforceable mechanism requiring residents and businesses generating solid waste to participate in an organics collection program provided by the jurisdiction and requiring commercial edible food generators to participate in an edible food recovery program; and

(d) Whereas, Siskiyou County finds that as a rural community it needs an exemption from the organic collection and organic waste collection program requirements of SB 1383, which would be extremely difficult to implement in this low population density rural community; and

(e) Whereas, Siskiyou County is applying for a rural exemption, on behalf of the County and all the jurisdictions in the County, from the organic waste collection program requirements of SB 1383 until at least December 31, 2026; and

(f) Whereas, all jurisdictions, however, are being forced by the State to develop an edible food recovery program. In response to this unfunded mandate, the SCWMA has adopted an ordinance to establish a uniform and comprehensive countywide system to establish the local regulations required by the SB 1383 Regulations concerning regulation of commercial edible food generators, food recovery services and food recovery organizations, including enforcement mechanisms and administrative civil penalties for violations, as forced upon us by the State; and

(g) Whereas, On January 6, 2022, the SCWMA adopted the Edible Food Recovery Ordinance (“EFRO”), Ordinance SWJPA 2022-01 found on the Siskiyou County Website, Sanitation page, under supporting documents. In order for the EFRO to apply in the County, the County is being forced by the State to adopt an ordinance declaring that it will apply within the unincorporated County; and

(h) Whereas, The County is being forced by the State to have the EFRO apply in the County; and

(i) Whereas, The EFRO provides jurisdictions with the option to grant enforcement authority over various of its provisions to agencies specified in the EFRO. The County is making designations by approving a modification to the JPA agreement giving the County of Siskiyou the authority to act as the Designated Enforcement Agency for the SCWMA member agencies for SB 1383 compliance and enforcement and AB 341 compliance reporting; and

(j) Whereas,Siskiyou County understands that even though the Cities are delegating SB 1383 enforcement to the County and the JPA, on behalf of the SCWMA member agencies, the Cities and the County are the responsible entities for compliance within each of their respective jurisdictions and if CalRecycle enforces for jurisdictional non-compliance, it will enforce on the non-compliant City or the County and not on the Agency operating on behalf of the Cities and County.

Section 5-14.02. Enforcement Agency Authorization.

(a) The SCWMA and the County are authorized and designated to carry out the responsibilities specified in the Edible Food Recovery Ordinance SWJPA 2022-01, effective January 1, 2022.

(b) The authorization and designation above does not limit the County’s authority to independently carry out some or all of the responsibilities designated above. The County retains full authority to implement and enforce the Edible Food Recovery Ordinance SWJPA 2022-01.

(c) The Board of Supervisors may authorize and designate other entities to carry out responsibilities under this Ordinance and no amendment of this Ordinance shall be required.

(d) Penalty Amounts for Violations of the EFRO.

The Enforcement Agency may issue a Notice of Violation requiring compliance within 60 days of issuance of the notice. Absent compliance by the respondent within the deadline set in the Notice of Violation, the Enforcement Agency may commence an action to impose penalties via an administrative citation and fine, pursuant to the Enforcement Agency’s standard procedures. The penalty levels are as follows:

(1) For a first violation, the amount of the penalty shall be $100 per violation or such higher amount as may be established by an Enforcement Agency, as defined in SCWMA’s Ordinance SWJPA-2022-01

(2) For a second violation, the amount of the penalty shall be $200 per violation or such higher amount as may be established by the Enforcement Agency.

(3) For a third or subsequent violation, the amount of the penalty shall be $500 per violation or such higher amount as may be established by the Enforcement Agency.

SECTION II: California Environmental Quality Act

This Ordinance is adopted pursuant to CalRecycle’s SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. No mitigation measures identified in the EIR are applicable to Siskiyou County’s enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance and no additional environmental review is required.

SECTION III: Constitutionality: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SECTION IV: This Ordinance shall become effective 30 days after its passage and shall, within 15 days of adoption, be published once in a newspaper of general circulation, printed and published in the County of Siskiyou.

PASSED AND ADOPTED this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 2022 at a regular meeting of the Board of Supervisors by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Brandon Criss, Chairman

Board of Supervisors

ATTEST:

LAURA BYNUM, CLERK,

Board of Supervisors

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Deputy