

INFORMATION PAPER



August 4, 2021
Planning, Building, and Development
Eric Waggoner, Director

SUBJ: REGULATORY OPTIONS FOR OPEN BURNING AND CONSOLIDATED WASTE HAULING SERVICES

Executive Summary

Open burning is utilized by many residents in unincorporated Lake County to dispose of landscape waste, including leaves, brush, and wood from their property. However, burning landscape waste may have negative impacts on surrounding residents by creating nuisance smoke, smell, or pollution. At the Energy and Environment Committee's direction, staff has been undertaking a study of both (1) potential options to permanently regulate the open burning of landscape waste in the unincorporated area and (2) potential options for waste (include landscape waste) franchising as an alternative disposal method to unregulated burning. On August 4, staff will present to a Joint PWPT/E&E Committee the results of that research and staff's public engagement efforts thus far in exploring resident perspectives on both policy areas. It is anticipated that the Joint Committee will engage in a discussion of these policy options and give staff direction on next steps in preparing appropriate action items for Committee review in September.

In advance of the Joint Committee discussion, staff conducted three separate information-gathering exercises to inform the Board's policy choices:

- Collection of public feedback on open burning restrictions and waste franchising by way of a 2-part series of resident surveys, a comment field in the County's Clean Air Policy website, public comment at the County's Clean Air Virtual Town Hall meeting, and a dedicated email server for resident input.
- Release of a Waste Hauling Franchising Request for Proposals (RFP) and analysis of the resulting proposals submitted.
- Inventory of regional best practices in the area of open burning restriction options.

Based on these exercises, staff will be presenting a series of choices for the Board's consideration in the area of open burning restrictions (i.e. a total ban, time-place-manner restrictions, or "do nothing") and in the area of waste franchising (i.e. consolidated garbage, recycling, and landscape waste services vs. landscape waste services only, applied countywide or by quadrant). In so doing, staff will also provide the Board with the consequences of such policy choices from the perspective of Lake County residents.

The following memo provides specific details on the various policy choices and surveyed resident opinions about such choices. Staff will be referring to these items during the presentation and encourages Board members to review the following in advance to familiarize themselves with such details prior to the Joint Committee meeting.

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Background

- Since 2019, per the direction of the Energy and Environment Committee, staff has worked to: 1) study possible future open burning regulations, 2) prepare and publish a Request for Proposals (RFP) for franchised waste services in unincorporated Lake County, and 3) gather public input on open burning regulations and franchised waste services in unincorporated Lake County.
- Since May 12, 2020, a Temporary Open Burning Restriction Ordinance has been in place for the unincorporated areas limiting the open burning of landscape waste.
- All other Chicago-area collar counties (Cook, DuPage, McHenry, Will, and Kane) have open burning restrictions.
- Within Lake County, 30 municipalities ban the open burning of landscape waste and 21 municipalities place restrictions on time, place, and/or materials. Hence, the overwhelming majority of municipalities within Lake County restrict (by some manner) the open burning of landscape waste.

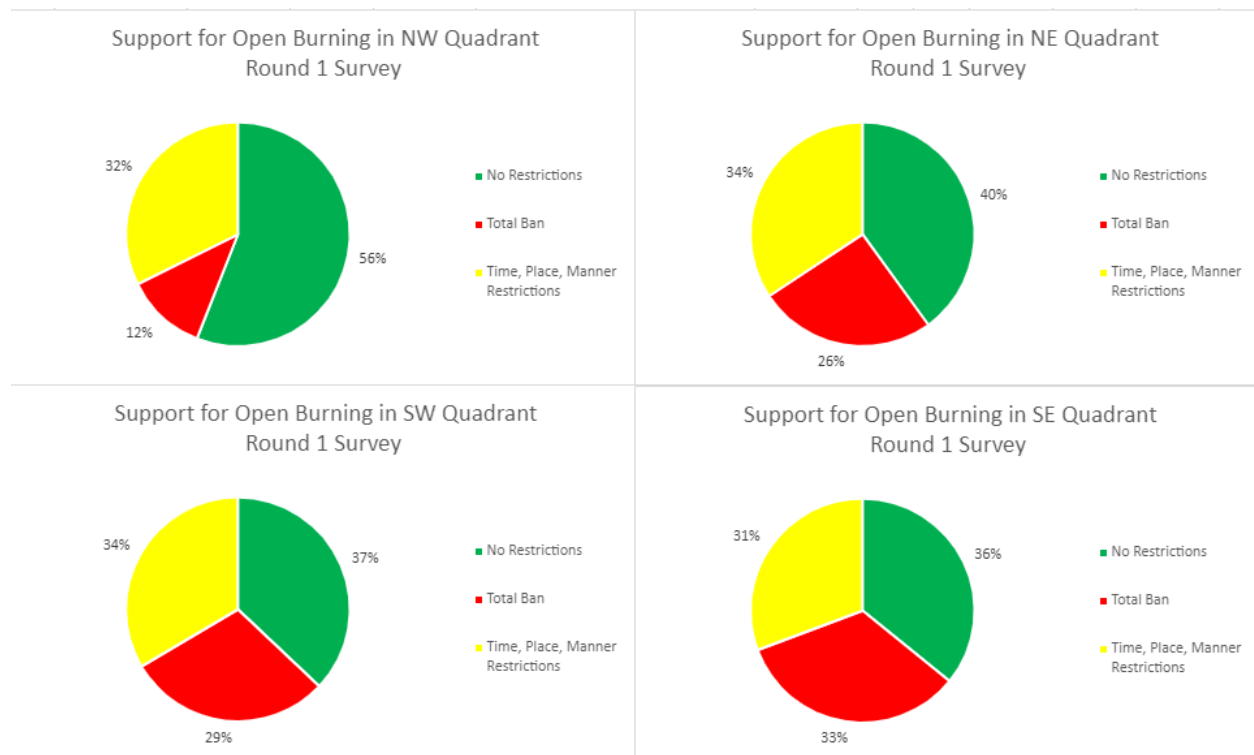
Public Engagement Process

- The County has engaged in an extensive outreach program to invite public feedback on clean air policy, including a Clean Air Policy website, a Virtual Town Hall meeting and two resident surveys, in addition to a dedicated email for public feedback, press releases and County Board member newsletter announcements about the clean air policy topic and upcoming opportunities for input.
- The most significant feedback was obtained via the County's two-part resident survey process. Of those residents that participated in two open surveys conducted from February-July 2021, survey respondents were more or less evenly split on the topic of restrictions vs. no restrictions, with the former group consisting of residents in support of either a total ban or some sort of time-place-manner restrictions. When asked for their opinions about waste hauling franchising IF a franchise agreement could reduce resident costs, slightly more respondents indicated support for franchising than opposition to it (with some modest differences by quadrant). Some clear geographical patterns emerged from the Survey results in terms of level of participation/interest in the survey process: the most significant level of participation in the survey came from the Northwest Quadrant of the County, with the majority of those respondents self-identifying as residents of either the 60002 (Antioch) and 60046 (Lake Villa/Lindenhurst) zip codes. Participants self-identifying as residents of the other quadrants of the County were much less numerous.
- It is important to note that although public participation in the surveys was very robust overall, neither survey should be considered a scientific poll but rather a "snapshot" of public opinion at most. Details of these survey results follow:

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Public Perspectives on Open Burning in Lake County (Results of Round 1 and Round 2 Surveys)

- According to the Round 1 Survey, respondents county-wide expressed a somewhat evenly split opinion about open burning restrictions for the unincorporated area: roughly 48% of respondents indicated a preference for no restrictions on open burning of landscape waste, with the remainder (roughly 51%) expressing support for some level of restrictions (including a ban, and time, place, or manner restrictions). Opinions were much less evenly balanced between restrictions vs. no restrictions when broken down by quadrant:



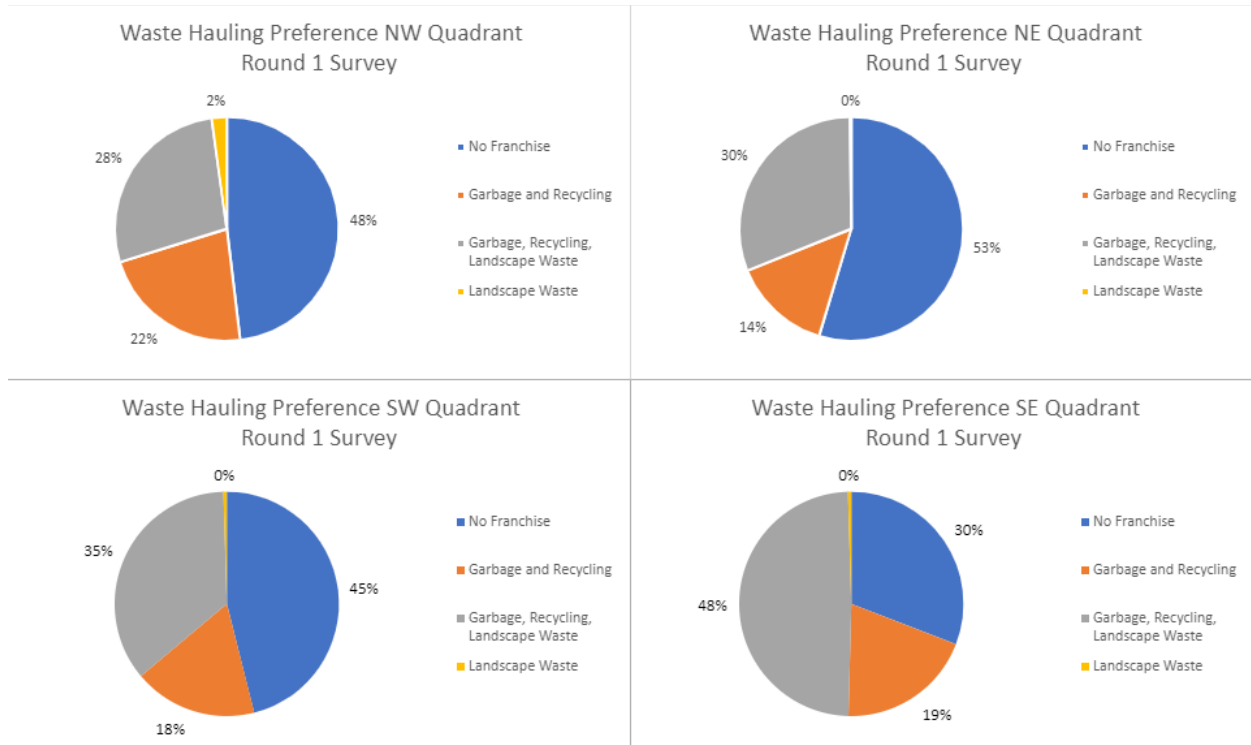
- The Round 2 Survey attempted a “deeper dive” into the preferences of respondents, with a more nuanced look at the types of restrictions possible in an open burning ordinance. In the survey, for those respondents who were open to the idea of time, place, or manner restrictions, the most favored restrictions related to days of the week (16%), types of landscaping (10.5%) and minimum distance from dwellings (10.5%).

Public Perspectives on Consolidated Waste Service Franchise (Results of Round 1 and Round 2 Surveys)

- According to the Round 1 Survey, respondents were again somewhat evenly split on the topic of franchising: roughly 45% of respondents (self-identifying as unincorporated residents) indicated

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a preference for no franchising of waste services in the unincorporated area, with a slightly higher percentage (55%) indicating a preference for some kind of franchising services. Opinions were more varied at the quadrant level:



- The Round 2 Survey attempted a “deeper dive” into the preferences of respondents as to concerns over franchising: of those respondents who oppose franchised waste service on the basis of cost and loss of choice in their waste hauling services, 56% of those responses indicated potential cost increase concerns, with a smaller percentage (23%) expressing concern about loss of personal choice in waste hauling services.
- Of 277 self-identified unincorporated respondents who provided precise billing information in the Round 2 Survey, those survey respondents paid on average **\$88.90 per quarter for waste hauling (\$29.63 per month)** (Note: responses do not specify whether services provided include waste, recycling and/or landscape waste or all three services combined).

Policy Options

Waste Hauling

The County Board may choose to take two courses of action for waste hauling: contracting with a franchised waste hauler or continue to let residents obtain their own service. The benefits and downsides of each are as follows:

- **No franchised waste hauling:** Residents in unincorporated areas retain hauler choice. Residents in unincorporated areas and neighboring municipalities will have increased traffic compared to a franchised option, including more wear and tear on roads.

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- **Franchised waste hauling:** Residents in unincorporated areas may have lower costs for waste hauling. [NOTE: Based on staff's initial analysis of vendor proposals to the RFP, participating vendors are below the estimated average reported resident cost of \$29.63 per month and would bring overall cost savings to a substantial number of unincorporated residents.] Franchising will also result in decreased hauler traffic and the various accompanying benefits.

Open Burning

The County Board may choose among three broad policy options concerning open burning: no change (no regulations), limited ("time, place or manner") restrictions, or a total ban. The benefits of each are as follows:

- **No change:** residents in unincorporated areas can utilize a no-cost disposal method for landscape waste; neighbors (both inside and outside unincorporated areas) may be affected by smoke and smell nuisances.
- **Time/Place/Manner:** Such restrictions would limit burning and consequently reduce smoke nuisance, but residents in unincorporated areas may need to adjust schedules and procedures for open burning.
- **Total ban:** residents in unincorporated areas will need to find other landscape waste disposal methods and may incur increased costs. Unincorporated areas and neighboring municipalities will experience less smoke nuisance.

Time Restrictions

Time restrictions can be used to restrict open burning to certain months, day, and times of day. Time restrictions of each type can be used to prohibit open burning during times when 1) average air quality is likely to be poor, or 2) people recreate outdoors, including exercise, play, or relaxation. The consequences of each type of restriction are as follows:

- **Months:** By limiting burning to certain months of the year, residents will have to stockpile landscape waste until the season for open burning. It will then be more likely to dry out, produce less smoke or smell nuisance when burned, and reduce negative impacts on neighbors. Furthermore, by avoiding warm, dry months during the summer there is reduced fire risk from open burning. Limiting burning to colder months can eliminate smoke nuisance during summer months when people are more likely to recreate, and air quality is worse. Stockpiling will be required for landscape waste on resident properties until the open burning season for those wishing to burn such materials.
 - **Example:** Limit burning from November through April
- **Days:** By limiting burning to certain days of the week or days of the month, residents will avoid days when school is in session or when people recreate and eliminate the need for stockpiling that results from limited-months restriction. However, limiting burning to certain days can be problematic for some people that have schedule conflicts, such as people who work on the days when burning may be allowed.
 - **Example:** Limited to Saturdays and Sundays, or first and last Fridays and Saturdays of the month.
- **Time of Day:** By limiting burning to certain times of day, residents can avoid times when people are typically home or recreate outside and eliminate the need for stockpiling versus the limited-months restriction. Limiting burning to certain times of day can exclude some people that have schedule conflicts, such as people who work shifts during times when burning may be allowed. The scheduling conflicts of time of day and days permitted combined are more likely to exclude some residents.
 - **Example:** Limited from 10 am to 4 pm, or sunrise to sunset.

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Place Restrictions

Place restrictions can be used to limit open burning to certain places on a property or within unincorporated areas. These restrictions can be used to limit nuisance to neighbors while still allowing open burning. The consequences of each type are as follows:

- **Minimum Distance:** Limits burning to areas an appropriate distance from dwellings, structures, schools, or lot lines. This limits fire risk to buildings and moves potential nuisance from properties, homes, or schools. Some small lots may not be big enough to have a location within the minimum distance where the residents may burn, and thus may be excluded from open burning.
 - **Example:** Open burning can only occur more than 100' from a dwelling or school, and 25' from an accessory structure.
- **Large-Lot Exemptions:** Removes any time restrictions (including month, day, and/or time of day) for large properties if burning is sufficiently far from other properties. Open burning of landscape waste may then be utilized where the disposal burden is greatest and allows ecological/prescribed burns to maintain native areas. One downside is that regular, large volume fires may be a limited nuisance.
 - **Example:** Burning more than 500' from a habitable structure or property line can occur on any day, month, or time of day.

Manner Restrictions

Manner restrictions can be used to limit how and what items can be burned. These restrictions can exclude smoky or dangerous items from being burned. [Note: The Lake County Public Nuisance Ordinance currently prohibits the open burning of garbage, refuse, and construction materials. Safety measures are also other types of manner restrictions.

- **Materials:** Burning limits on landscape material types can be effective in reducing smoke and/or toxins. The Board can either explicitly allow or ban certain landscape materials. If certain materials are excluded, then residents must find other disposal options for these materials. However, there could be other low-cost options such as mulching or composting.
 - **Example:** Residents may not burn grass clippings.
- **Safety Measures:** Inclusion of safety and responsibility measures ensures proper and safe burning that limits nuisance to neighbors. Safety measures may prevent dangerous fires or situations.
 - **Example:** Fires must be supervised by an adult over 18 years of age at all times.

COMMITTEE DIRECTION/STAFF RESPONSE:

Following a discussion of the background, public engagement information and policy options, staff will be seeking specific feedback from the Joint Committee on a path forward per the policy choices above. Based on that Joint Committee direction on open burning restrictions and waste franchising, staff will prepare two sets of deliverables for the PWPT September Committee Round: (1) an ordinance draft (if directed) containing specific regulations related to the open burning of landscape waste in the unincorporated areas and (2) a franchise agreement draft or drafts (if directed) related to specific terms of service for waste hauling services.

Attachment: (1) Public Comments [Redacted] (2) Virtual Public Forum Comments (3) July 13 Virtual Meeting Comments (4) Survey Comments Round 1 (5) Survey Comments Round 2

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| COORDINATION & ALIGNMENT | Staff Coordination | Strategic Initiatives | | | 2019 Strategic Goals | | | | 2019 Strategic Themes | | | | | | | | | |
|--------------------------|--|-----------------------|-----------------------|--|-------------------------|---------------------|----------------|---------------------|---------------------------|------------------|-----------------|-------------------|----------------|------------------|----------------|-----------------|---------------|-----------------------|
| | ✓ CAO ✓ FAS /Purchasing ✓ IT/ET ✓ PB&D ✓ SAO | X | | X | | | | X | X | X | X | | | X | X | | | |
| | | Regional Leadership | Fiscal Responsibility | Exceptional Service and Operational Excellence | Public Safety & Justice | Econ. Opportunities | Infrastructure | Sustainable Enviro. | Build Healthy Communities | Inter-Org. Coop. | Quality of Life | Econ. Development | Infrastructure | Enviro. Sustain. | Sustainability | County Branding | Mental Health | Specialty Funding |
| | | | | | | | | | | | | | | | | | | Diversity & Inclusion |