

Memo

To: Village Board

From: Chris Clark, Director of Parks, Recreation, & Forestry

Re: Approval of a Joint Use Agreement for the Stump Grinder that was Co-Purchased with the Village of Ashwaubenon

Date: March 6, 2018

Background Information:

The Department is co-purchasing a stump grinder with the Village of Ashwaubenon as approved at the February 6, 2018 meeting. This equipment will be utilized by both municipalities throughout the year and scheduled by need and mutual agreement.

The Parks Directors from each municipality have put together a mutual use agreement for the use and maintenance of this machine. The term for this agreement is for a five year period with an annual renewal thereafter. Each of the village's attorneys has reviewed and approved the agreement as well.

Budget Information:

Maintenance costs and insurance will be shared equally between the two parties. Equipment maintenance is budgeted in the Equipment Replacement Fund.

Staff Recommendation:

- Staff recommends that the Village Board approve the Joint Use Agreement for Stump Grinder between the Village of Allouez and the Village of Ashwaubenon .

Attachments:

- Joint Use Agreement for Stump Grinder between the Village of Allouez and the Village of Ashwaubenon

JOINT USE AGREEMENT FOR STUMP GRINDER

between

THE "VILLAGE OF ALLOUEZ" AND THE "VILLAGE OF ASHWAUBENON"

This is a mutual usage and maintenance agreement between the Village of Ashwaubenon and the Village of Allouez for the co-owned Vermeer stump grinder SC802 purchased in 2018.

The Vermeer stump grinder machine will be shared equally between the two municipalities.

For this agreement, the term "machine" shall mean the Vermeer SC802.

1. MAINTENANCE

The machine shall have a floating maintenance "log" that stays with/on the machine, so both municipalities are able to see what maintenance has been done, and the timing of said maintenance. *The log shall be completed after each maintenance item (routine or damage/repair) occurs by the mechanic or operator of that municipality who did said maintenance.*

Routine maintenance includes, but is not limited to: greasing, oil changes, tooth changing, filters, fluids, and washing. All maintenance will use best management practices and be performed by qualified personnel.

Specific hourly maintenance items recommended by the manufacturer shall be completed as close to the recommended hour usage as possible, by the municipality in possession of the machine at that time.

Any type of damage/repair maintenance (non-routine) that is done to the machine shall trigger a notification to the other party that said maintenance is being done. The notification is preferred to be a verbal phone call, although in emergency situations, it is understood that may not be possible. In emergency repair situations, a notice as soon as possible after repairs will be acceptable. The notice shall be to the Director of Parks, Recreation & Forestry in either community. All verbal notifications will be followed up by written/email communication.

2. MAINTENANCE COSTS

- a. All parts costs for routine maintenance will be equally shared.
- b. **Process:** Both municipalities will equally share in the in-house maintenance of the machine, unless agreed upon in writing that one municipality takes the "lead" in the machine's maintenance.
- c. Replacement part(s) costs for specific damage incidents, or those which occurred over time during one municipality' usage, must be mutually agreed upon. If a written agreement cannot be reached on who is responsible for damage, then the replacement part(s) costs shall be evenly split.

- d. In-house maintenance may be done by either municipality. There are no charge-backs required to the other municipality for labor/time involved in the maintenance.
- e. If maintenance of the machine cannot be done in-house, it will be sent out for contracted maintenance. The preferred contractor will be the supplier or manufacturer of the machine. Contracted maintenance cost responsibility can be verbally agreed upon between the two owners, followed up by written/email communication. If costs cannot be mutually agreed upon, then said maintenance shall be equally shared between the Parties.

3. DAMAGE TO MACHINE

Any damage to the machine shall be noted on the maintenance log and be reported to the Department Directors of each municipality. If a specific municipality is found to be the cause of said damage through negligence or intentional misuse, it is the responsibility of that municipality to repair. If it is found that damage is due to joint usage/mis-usage and/or normal wear and tear, then damage repair cost shall be evenly split.

4. SCHEDULING USE OF MACHINE

- a. The "Village Forester" for Ashwaubenon, and the "Parks and Facilities Foreman" for the Village of Allouez will be the two parties responsible for scheduling of the machine.
- b. The machine should be scheduled far enough in advance so that crew assignments can be planned for specific forestry tasks. The parties agree to schedule in good-faith so that both municipalities have approximate equal access to the machine during in-season time periods.
- c. Once a timeslot is scheduled by one municipality, the machine cannot be taken by the other municipality unless agreed upon by both.
- d. There shall be an hourly use log on the machine where each municipality tracks their respective amount of hours used. Hours should be entered on a per-use/project basis, with starting and ending hours taken from the machine's equipment hour meter.

5. STORAGE

- a. The Village of Allouez will be the primary off-season site for storage of the stump grinder.
- b. When either municipality is using the grinder "in-season", it may be stored with that municipality until the next scheduled usage for the "other" municipality.
- c. The machine should be stored indoors, or out of the elements, whenever possible.
- d. The Village of Ashwaubenon and Village of Allouez staff will be given each other's contact names and numbers for the purpose of obtaining machine access at each other's respective storage facilities.

6. INSURANCE

- a. whoever the main "storer" of the piece of equipment is, is the one who should insure it. Since the Village of Allouez will initially be the primary storer of the machine, insurance will be provided by the Village of Allouez. The insurance policy will name the Village of Ashwaubenon as an additional insured.

- i. The cost of insuring the machine will initially (on a yearly basis) be borne by the Village of Allouez. Allouez would then invoice the Village of Ashwaubenon on a yearly basis for 50% of the insurance cost.
- ii. Whichever party is insuring it is the one who would file claim if damage occurs to it, in possession of either party.
- iii. It is the users' responsibility to report to their own insurance carrier if damage occurs to a third party due to use of the machine. As examples, this could mean damage or injury to something from flying woodchips; or if an employee damages another persons' car in a traffic accident while towing the machine. Each municipality shall cover their own employees for all work related injuries involving the machine.

7. OPERATOR TRAINING

Only properly trained personnel may operate the machine. Training should be a combination of:

- Reading of the operator manual
 - A written confirmation record should be made of the reading.
- Viewing of a training video
 - Written records should be made of this training
- Hands on operation in the presence of an experienced operator

8. TERMS

- a. The terms of this agreement are in effect for a 5 year period upon receipt of the machine. The agreement may be terminated or modified earlier only if both municipalities agree in writing. After the initial 5 year period, the agreement continues to remain in full effect for succeeding one (1) year terms until terminated as provided in subparagraph b.
- b. *After* the 5 year period, a 1 year written notice of termination is necessary to terminate the agreement. (This would allow for budgeting and purchase of a new machine by a municipality, yet still allow for usage of current machine by one or both if needed). If necessary, sale details of the machine would be finalized between Allouez and Ashwaubenon during the one (1) year termination period. Sale details would need to be approved by the Village Boards of both municipalities. If sale details cannot be worked out between the parties, then the machine will be listed and sold on a Public Equipment auction website with the proceeds being evenly divided between the two municipalities.
- c. The parties, having read and understood the terms and conditions of this joint user agreement, agree to make all deliberate effort to comply with the duties and responsibilities imposed upon them thereby.
- d. If any party suffers any third party claim which arises from the acts or omissions of the other party and its negligent maintenance or negligent use of the machine, then the other party shall indemnify and hold the party suffering the claim harmless for all liability associated with the claim including reasonable attorney's fees and litigation costs. Nothing in this agreement shall be construed as a waiver of either municipality's immunities available to it as provided by law.

VILLAGE OF ALLOUEZ

Chris Clark, Village of Allouez Director of Parks, Recreation & Forestry

Date

VILLAGE OF ASHWAUBENON

Rex Mehlberg, Village of Ashwaubenon Director of Parks, Recreation & Forestry

Date

Village of Allouez: (920) 448-2800

Village of Ashwaubenon: (920) 492-2331