

Bristol Town Administrator

From: Fred Satink <fsatink@vlct.org>
Sent: Friday, May 21, 2021 3:43 PM
To: Bristol Town Administrator
Cc: Denise Ricker; Kelly Knotek; Vicky Abare; Susan Benoit
Subject: FW: Waiver of liability for use of Fire Dept. exercise room
Attachments: Town_of_Bristol-Fire_Department_Agreement_of_Liability_for_Exercise_Room.pdf; BRISTOL FIRE STATION Exercise use Waiver 5-2021 FS.docx

Hi Valerie, hope things are going well in Bristol.

This made its way to Underwriting, for our review. As you know, we are happy to review these types of agreements, potential contracts, etc.

I have attached the original pdf you provided and a revised version in Word. I did make a number of language updates and changes for your consideration, and also added a few comments that provide additional details or guidance. As far as I know, this document was not shared with PACIF at the time of implementation, so we were not involved in its development.

A couple of key takeaways from my perspective, include:

- Have the town attorney review the document before finalizing it. He/she may want to strengthen the attestation statement as well as the hold harmless language. It is really pretty bare bones. I think the language that clarifies the that the use of equipment is not associated with “employment”, is sufficiently strong, but it would be good to have counsel review that too.
- I recommend eliminating the “family member” allowance in the original document as that casts a large net and includes minors, whose liability cannot be waived in the future. See comment in my draft.
- Overall, the document is a reasonable attempt to limit liability – but in the end, if the town is negligent in the maintenance and upkeep of equipment, no waiver can protect you from that liability. Hence, regular inspection and maintenance is key.

Hope this is helpful....and as always, we appreciate you reach out to us for assistance.

Best,
Fred



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BRISTOL FIRE STATION – EXERCISE ROOM USE AGREEMENT AND WAIVER OF LIABILITY

The town has chosen to provide this workout equipment as a benefit to its first responders. This agreement outlines the conditions of equipment use, inherent risks that can be associated with exercise when done in an unsafe manner or outside of qualified medical advice. All users are strongly encouraged to check with a qualified healthcare professional before beginning any physical training program.

1. The risk of injury from workout activities may be significant, therefore each user of the exercise room equipment acknowledges their understanding of this risk and agrees that they are engaging in self-directed exercise or exercising under the guidance of a qualified trainer or healthcare professional. All use of the exercise room equipment is voluntary, is not a requirement of any job or work position, nor a performance measure for firefighters or police officers. Use of the exercise room is the full responsibility of the user. Furthermore, such equipment usage is strictly on the participant's own time.
2. I knowingly and freely assume all risks of injury, known and unknown, even if arising from the negligence of others and assume full responsibility for my use of the exercise room equipment;
3. I agree to notify the Fire Chief or his/her designee if any equipment is found to be broken or defective; and
4. I agree to clean and sanitize the exercise equipment after use and leave the area in as a good of condition as it was found; and
5. I understand the Town of Bristol Fire Station Exercise Room is open to all Bristol Fire Department personnel, their partner, and immediate family members and Bristol Police Officers only; and
6. I understand any Town of Bristol fire fighter's partner or immediate family member must always be accompanied by a Town of Bristol firefighter; and
7. I hereby release and hold harmless, the Town of Bristol and the Town of Bristol Fire Department, their officers, employees, volunteers, and elected officials with respect to all and any injury, disability, death, or loss or damage to person or property, whether arising from the negligence of the releases or otherwise, to the fullest extent permitted by law.

I HAVE READ THIS USER AGREEMENT AND WAIVER OF LIABILITY IN ITS ENTIRETY, FULLY UNDERSTAND AND AGREE TO ALL OF ITS ELEMENTS, AND SIGN IT FREELY AND VOLUNTARILY WITHOUT INDUCEMENT.

Commented [FS1]: The agreement is a reasonable attempt to limit liability and also limit WC claim risk. That said, it is not airtight. The town will certainly have risk associated with unmaintained or broken equipment. It is very important that one or more persons be assigned the responsibility to inspect the facility and equipment routinely to check for broken, damaged or malfunctioning equipment. Of course, any such equipment must be taken out of service and tagged as such. Failure to do this greatly increases liability risk.

Commented [FS2]: I added this because it is not only appropriate in the COVID world, it is good sanitation. This will require cleaning/sanitizing materials and paper towels to be present.

Commented [FS3]: This is a problematic element, in that use by immediate family members encompasses a wide range of potential users. Minor children should not be permitted to use the equipment in my view, since even if a parent waives their child's liability rights (which currently the agreement is not doing), the minor child could file suit for damages at the age of 18. We already have such a claim. Bottom line, I suggest that this be revised to remove the immediate family reference - or at least restrict it to immediate household (not family) members who are 18 or older. Additionally, EACH facility USER must sign this agreement - not just the firefighter signing for his/her partner and family.