

# CHAPTER 145

# Memo



TO: Town Council  
ATTN: Town Manager Eileen Cabanel  
FROM: Finance Director Paul T. Micali  
DATE: January 5, 2018

**RE: Chapter 145 -Peddling and Soliciting**

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At the last council meeting Councilor Albert asked the question on how the Manchester law suit would affect Chapter 145(Peddling and Soliciting). I had legal review the chapter with that in mind.

In their opinion, the Town has exposure here on Chapter 145. Courts in other states have ruled that requiring a permit places an unconstitutional burden on speech based upon its content. The courts seem to all be taking the position, rightly or wrongly, that it's a constitutional right to peaceably ask for money and that government cannot restrict that in any way – other than for legit safety concerns. For example, if folks are threatening, disturbing the peace, blocking traffic, etc. but that can all be enforced by the PD anyway as criminal violations or misdemeanors.

However, if the Council doesn't feel strongly, they recommend rescinding this Ordinance

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## **Chapter 145, PEDDLING AND SOLICITING**

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### **ARTICLE I, Charitable Donations**

#### **§ 145-1. Permit required.**

It shall be unlawful to solicit financial aid or assistance from the public by panhandling or canning for charitable or for other purposes by any person, firm, business, group, corporation, partnership or other entity, unless a permit for such activity is obtained from the Town Council. A copy of such permit is required to be visibly displayed during all solicitation activities, at all activity locations, by all those engaging in the activities. Each participant shall be included on the permit, and a copy will be filed with the ~~Chief of~~ Police [**Chief**] prior to commencing solicitation activities.

#### **§ 145-2. Application.**

Applications for permits under this section shall be made to the Town Clerk upon a form to be determined by the Town Clerk, which shall include the name and address of the requesting individual or organization, the name and address of all participants, an indication that the organization is duly registered as nonprofit or as charitable, or not, and written consent of property owners if the activities are to be conducted on private property.

#### **§ 145-3. Application fee.**

Each application for a permit under this article shall be submitted with a fee of \$5 The application fee may be waived upon request by registered nonprofit and registered charitable organizations.

#### **§ 145-4. Designation of Town Clerk.**

The Town Council may designate its authority to issue permits under this article to the Town Clerk.

#### **§ 145-5. Violations and penalties.**

Any person, firm, business, corporation or other entity violating any provision of this article shall be fined a sum not to exceed \$500 for each offense. All funds collected in violation of this article shall be forfeit to the use of the Town of Merrimack.

#### **§ 145-6. Waiver of License**

The Town Council may, at their sole discretion, waive some or all of the provisions of this ordinance.

**§ 145-7. Effective date.**

(This article became effective on 7-1-1997; Amended by the Merrimack Town Council 12-3-2009)

Authenticated:

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Nancy M. Harrington, Town Council Chairman

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Date

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Diane Trippett, Town Clerk / Tax Collector

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Date