



MEMORANDUM

To: Santaquin City Mayor & Council
From: Benjamin A. Reeves, Santaquin City Manager
Date: January 4, 2022
Subject: Vaccine Mandate Policy

On November 5, 2021, the Federal Government, via the Occupational Safety and Health Administration (OSHA), issued CFR 1910.501, which requires that all employers with 100 employees or more, (such as Santaquin City), enact a policy mandating the COVID-19 vaccine for its employees. Initially, this order was granted a stay by the 5th U.S. Circuit Court of Appeals. However, on December 17, 2021, the 6th U.S. Circuit Court of Appeals, after taking over the case having won a multi-circuit lottery, lifted the 5th U.S. Circuit Court of Appeal's stay on the OSHA order. As such, OSHA's initial directive, which was slated for implantation on December 6, 2021, is now required to be implemented by January 10, 2022. This is now the law of the land unless acted upon by either the Judicial or Legislative branches of government.

The U.S. Supreme Court is scheduled to hear arguments on the matter on January 7, 2022, and may, or may not issue a ruling on all or a portion of those arguments during the following week. However, it is very likely that the U.S. Supreme Court may not act prior to the January 10th deadline established by OSHA.

As such, it is prudent for Santaquin City, and other cities and businesses with more than 100 employees, to consider the passage of a mandate prior to January 10th that would satisfy the OSHA requirement and to consider all of the impacts of enacting such a mandate. Santaquin City has prepared the language of a proposed mandate which is "conditional" upon the anticipated ruling of the U.S. Supreme Court (attached). This is before you for your consideration.

It is important to note that the fines for not complying with the OSHA directive are very steep.

"The Occupational Safety and Health Act of 1970, inflation-adjusted for 2021, determines a maximum penalty for repeated and willful violations of OSHA rules at \$136,532, with a minimum penalty of \$9,753. The legislation sets a maximum penalty of \$13,653 for any single serious violation, and a further penalty of not more than \$13,563 per day for failure to abate the violation (though the maximum penalty for this abatement failure is capped at 30 times the daily penalty)...However, the recently proposed Build Back Better reconciliation bill would increase penalties for breaches of these OSHA regulations by 10 times their previous values..."⁽¹⁾

(1) <https://theeconomicstandard.com/penalties-for-violating-oshas-proposed-vaccine-mandate/>

We recommend that the City Council hold a healthy discussion regarding the benefits and risks, and the pros and cons, of the proposed mandate, with the following options to be considered:

Recommended Motion: (Option 1 – Approve the Vaccine Mandate):

Motion to approve Resolution 01-05-2022, A Resolution Approving the Santaquin City COVID-19 Vaccination Mandate in Accordance with CFR 1910.501.

--OR--

Recommended Motion: (Option 2 – Approve the Vaccine Mandate with Modifications)

Motion to approve Resolution 01-05-2022, A Resolution Approving the Santaquin City COVID-19 Vaccination Mandate in Accordance with CFR 1910.501, with the following modifications:

--OR--

Recommended Motion: (Option 3 – Deny the Vaccine Mandate)

Motion to deny Resolution 01-05-2022, A Resolution Approving the Santaquin City COVID-19 Vaccination Mandate in Accordance with CFR 1910.501.

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