



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Cindy Gust Jenson and Ben Luedtke

DATE: May 30, 2024 **LAST UPDATED MAY 28**

RE: Ordinance Amendment for Core Functions of the Sustainability Department

Project Timeline:

1st Briefing: May 30, 2024

2nd Briefing: TBD

Potential Adoption Vote: TBD

ISSUE AT-A-GLANCE

As part of the FY2024 annual budget, the Council adopted a legislative intent for department role clarity, stating: “It is the intent of the Council to ask the Attorney’s Office to propose updates to the City’s code that define and discuss the respective roles of City departments. This review should include, but not be limited to, the Sustainability, Economic Development, and Public Lands Departments. Per Council discussion, Sustainability is the priority.”

The Attorney’s Office provided a draft ordinance that would amend Section 2.08.120 of the *Salt Lake City Code* to update the functions and responsibilities of the Sustainability Department. The current ordinance language for the Sustainability Department is two sentences. First is a circular reference that lacks specificity and meaning, and second is the function of the Waste & Recycling Division:

Current City Code Language from Section 2.08.120: DEPARTMENT OF SUSTAINABILITY:

“A. Functions: The department of sustainability shall have charge of and be responsible for sustainability. The department will also be responsible for the collection and disposal of all solid waste generated within the city as provided for in city ordinances. (Ord. 38-16, 2016)”

Attachment 1 is a redlined version of the draft ordinance amendment to Section 2.08.120 for the Sustainability Department. Attachment 2 is a memo transmittal from the Attorney’s Office.

Background on City Council’s Role in Establishing Department Authority:

Utah Code 10-3b-203(1)(b) says that the Council “may adopt an ordinance creating, consolidating, or abolishing departments, divisions and bureaus; and defining or altering the functions and duties of each department, division, and bureau.” This is the section of Utah Code establishing the Council’s policymaking authority to create and alter Administrative departments and give policy direction on these departments’ roles and authority. Under Utah Code 10-3b-202(c) and (d), upon establishment of the department’s authority, the Mayor may “exercise control of and supervise executive or administrative department, division, or office of the municipality” and “execute the policies adopted by the council.” The Mayor has broad discretion to establish administrative policy and priorities within the bounds set by the Council in ordinance and within the budget established by the Council. Of course, the Mayor is also free to make any type of proposal for funding or ordinance establishment.

Title 2 of Salt Lake City Code is the codification of the Council’s policy direction to the Administrative departments on each department’s role and authority. In considering revisions to Title 2, the Council has the

CITY COUNCIL OF SALT LAKE CITY

451 SOUTH STATE STREET, ROOM 304
P.O. BOX 145476, SALT LAKE CITY, UTAH 84114-5476

SLCCOUNCIL.COM

TEL 801-535-7600 FAX 801-535-7651



opportunity to provide policy guidance on the role, duties, and functions of the department; relying on such policymaking, the Administration can then implement programs, initiatives, and administrative policies to execute on those duties and functions.

Of course, Title 2 is not the only opportunity for the Council to provide policymaking to the Administration. Based on the duties and functions provided under Title 2, the departments may then prepare draft plans, programs, ordinances, resolutions, and budgets, all of which would go back to the Council for further legislative action and altering. This back and forth is intended to be a constantly evolving conversation between the branches, enabling the Council to articulate legislative priorities and the Administrative departments to propose the mechanisms by which those priorities are executed.

The proposed attached revisions to Title 2 for the Sustainability Department are intended to alter and clarify the Department's duties, functions, roles, and authority, so it can execute on those policies through planning, projects, and budgets.

The City Attorney's Office is working on proposed amendments for other departmental sections of Title 2 which also lack sufficient specificity.

Council staff has reviewed Title 2, and notes that in addition to lack of clarity of the roles/authority of specific departments, there is not an overarching section of Title 2 that applies to all departments and addresses: the roles of the Council and Administration, accountability between the branches of government, transparency, limitations on departmental authority, and recognition of department authority in relationship with the County, School District, and State. The Council may want to consider requesting the City Attorney's Office to draft a new section of Title 2 to address these overarching issues (more details on these are listed after the Sustainability Department specific section which immediately follows).

Analysis of Draft Sustainability Department Ordinance Revisions:

Four Core Functions

*(Text in **red** is copied directly from Attachment 1 the draft ordinance amendment)*

The ordinance amendment identifies four core functions (or roles and duties) for the Department to tie its budgets and programs back to. The Council has the opportunity to decide whether they agree with these duties and functions or whether they would like to change these policies.

The core functions include, broadly: (1) policies/programs to protect natural resources, reduce pollution, slow climate change, and create environmental resiliency (and this includes eight "focus areas" within this function); (2) waste and recycling services; (3) public engagement about the City priorities that fall within the Department's focus areas; and (4) prioritizing projects that fall within the scope of city government and coordinating with community, state, or county entities that have authority over the programs.

Note that this final prioritization (#4) could be revised to apply to all departments that create and administer municipal programs, especially related to the question of the role of departments related to other government agencies, including the County, State, and School District.

Each of the core functions is analyzed below.

Core Function #1: Citywide Policies and Programs Role to Advance Eight Focus Areas

"Pursuant to the policy direction under this section of City Code, and within the budgetary authority [established by the Council], the department may develop and coordinate policies and programs across city departments to benefit the community that will protect natural resources, reduce pollution, slow climate change, and establish a path toward greater resiliency for city operations and the community. Policies and programs will be aimed at achieving the greatest local impact, and shall address the following focus areas:"

Eight Focus Areas

- a. “Environmental compliance of city operations**
- b. Climate change mitigation and adaptation**
- c. Air quality**
- d. Energy efficiency**
- e. Renewable energy**
- f. Environmental justice and equity, local food systems**
- g. Greenhouse gas emissions reduction**
- h. Waste reduction, reuse, and recycling.”**

The Council may want to consider whether these functions are in line with its expectation for the Department, are too broad (or too narrow) or need to be revised in any way. If the Council adopts this ordinance, this becomes the duties and functions for the Department to execute on these policies by planning, requesting budget for, and establishing programs. This is not a delegation of policymaking authority to the Department (this clarification could be added explicitly to the ordinance text); rather, the ordinance is itself an exercise of the Council’s policymaking authority and establishes Department functions/authority which the Department (under its administrative authority) will execute upon to effectuate those policies.

One question the Council may want to consider is whether one department is in the best position to lead out on the policies listed in this draft ordinance and encourage the Mayor to identify a single lead department on all major projects for that core function / focus area. To assist the Council in this consideration, staff has created a table of potential overlap between the Sustainability Department’s listed core functions and other departments’ roles in those functions.

Table of Potential Overlap between Department’s Core Functions & Focus Areas

This is not a comprehensive analysis of all core functions across departments and is intended for discussion purposes at the Council briefing.

Core Function / Focus Area	Departments	Notes
Protect natural resources	Public Lands, Public Utilities, Sustainability	<ul style="list-style-type: none">- The Public Utilities Department has water rights and is tasked with watershed protection.- The Public Utilities Department and the Public Lands Department own natural lands properties.- The Sustainability Department focuses on reducing, reusing, and recycling of waste, energy efficiency, and renewable energy to decrease the use of virgin materials to protect natural resources.
Energy efficiency	Facilities Division in Public Services, Public Utilities, Sustainability	<ul style="list-style-type: none">- The Facilities Division in the Public Services Department is responsible for maintenance and operations systems of City buildings including energy efficiency projects.- The City’s network of streetlights and off-street lights such as on urban trails) are maintained and managed by the Public Utilities Department and the Engineering Division in the Public Services Department.- Sustainability leads the City’s efforts to promote energy efficiency in City buildings by convening the internal Energy Management Steering Committee and providing overall guidance for many citywide efficiency efforts.

Core Function / Focus Area	Departments	Notes
Environmental justice and equity	Equity Division in the Mayor's Office, Sustainability	<ul style="list-style-type: none"> - The Mayor's Office has a Division of Equity & Inclusion created a few years ago, which oversees the City's Title VI compliance (which includes an environmental justice and equity component) in connection with federally funded Transportation programs. -Sustainability advises and coordinates with the Mayor's Office and other departments to integrate environmental justice into existing or proposed City programs, including by advising on Brownfields grant awards for environmental cleanup projects on City/RDA property.
Greenhouse gas emissions reduction	Airport, Fleet Division and Facilities Division in Public Services, Transportation Division in CAN, Sustainability	<ul style="list-style-type: none"> - Measuring greenhouse gas emissions is a specialized skill that not all departments and divisions have in house. - Aviation and vehicles are major generators of greenhouse gas emissions so the Airport Department and Transportation Division have tools to advance this core function. - The City's vehicle fleet and equipment are managed by the Fleet Division and the Airport separately has a Fleet. Both are moving to electrify the vehicles and charging infrastructure. -Sustainability leads the City's efforts to electrify the City's fleet and increase community EV charging infrastructure. The Department organized the installation of new EV charging infrastructure, working with procurement, engineering, finance, and fleet division. Sustainability also addresses this through efforts to assist City residents to replace gas-powered lawn equipment. - Sustainability is also pioneering the Utah Renewable Communities or URC program, intended to reduce emissions by transitioning the community to renewable energy resources. The Department works to establish renewable energy on City properties, including the solar farm on the fleet yard and Sorenson Center.

Core Function #2: Waste & Recycling Division

“Providing waste and recycling services in accordance with Chapter 9.08 [Solid Waste and Recyclable Items] of this code.”

Note that the Waste & Recycling Division represents 90% of the entire Sustainability Department budget.

Core Function #3: Public Education and Outreach

“Developing strategies and resources to equitably engage and educate the public on department focus areas.”

Core Function #4: Prioritization of Resources

(Top priority is listed first then lower priorities)

The purpose of this function is to give the Department clarity on how to prioritize limited city resources when there might be other entities (private organizations, the State, County, or School District) which also could have authority in this realm. This section could be applicable to all departments. The Council could consider this prioritization as a follow-up policy discussion later after the core functions 1-3 listed above specific to the Sustainability Department.

“Prioritizing use of limited city resources by recognizing the following order of precedence in managing new and existing department programs:”

- a. **“City-specific programs or programs tailored to make a city-specific impact or address a city-specific concern;**
- b. **Partnership or supplementary programs designed to fill in gaps between other community or governmental initiatives;**
- c. **Programs that leverage financial or programmatic resources of other community or governmental organizations; and**
- d. **Programs that position the city as a community leader to effectuate change in department focus areas and stimulate greater community impact.”**

Overarching Policy Direction to All Departments:

Some of the topics proposed in the ordinance amendment such as the prioritization of resources (core function #4 above) and others raised by Council Members in recent discussions could be applicable to all departments. The Council may wish to request the City Attorney’s Office to draft a new section of Title 2 to create a section of duties, functions, and roles that apply to all departments. An outline of potential topics is listed below.

- City’s Form of Government: Codify the separate and co-equal authority of the branches of government, including the Council’s role of ordinance adoption, broad policy making, and budgetary authority, and the Administration’s role to execute on those policies, prepare plans and budgets for consideration, develop administrative policies and programs to execute on legislative policies, and operate the City.
- Participate in Centralized Financial System: Codify the Department of Finance’s role to direct and advise all City departments on financial best practices for accounting, financial reporting, banking, budget, and procurement policies and procedures. All departments, including enterprise funds, are required to work closely with the Department of Finance on financial best practices, to ensure consistency throughout the City.
- Grant Applications Advance City Policies: Codify a consistent grant application process for all departments in the City to ensure the Department of Finance has reviewed each grant application to ensure consistency with the City’s policies and processes.
- Coordinate With Existing Services: Codify a requirement that all departments prioritize limited City resources by tracking and coordinating with other departments and ensuring that City programs are not overlapping with outside entities’ programs unless the City has decided to fill a gap or lead out in that area. This might include establishing a community resource list of available programs and opportunities from other outside entities.
- Uniform Tracking and Communication: Codify a policy that the City utilize performance measurements for services provided by a department. Consider codifying a requirement for a uniform constituent relations management or CRM system. Consider codifying a requirement for universal communication standards, including use of the City’s logo, Department name and public contact information.
- Participate in Centralized Recorder Systems: Codify the City Recorder’s Office’s role to create a clear public record and advise all City departments on public noticing requirements and best practices. All departments, including enterprise funds, are required to work closely with the Recorder’s Office on official transmittals from the Mayor’s Office to the City Council Office, and creating a transparent public record of official papers and proceedings. All bodies convened by City Departments to advise the City on public policy recommendations to the Mayor and City Council adhere to the Open and Public Meetings Act, and be appointed in accordance with City ordinances, or otherwise authorized (by both branches?).
- Utilize Attorney’s Office for Legal Matters: Codify a requirement that all departments seek legal services provided by the Attorney’s Office and may not independently seek outside legal counsel. Separate

executive or legislative counsel may be sought from appropriated funds in certain circumstances per 2.08.040 (B) of *Salt Lake City Code*.

Goal of the briefing: *Receiving a briefing about the proposed ordinance amendment for the Sustainability Department's functions, identify areas of shared understanding, questions, and potential modifications.*

POLICY QUESTIONS

1. Agree, Add, and / or Modify Core Functions and Focus Areas – Are the four core functions the policy, duties, and roles that the Council wants to give to the Department of Sustainability? Does the Council see any missing core functions, focus areas or modifications to the proposed text? A few potential focus area topics not in the proposed ordinance are:
 - a. In the 4th core function: add a duty for the Department to collaborate with other departments on shared policy objectives, including financial incentives and programs for community members, such as loans and grants.
 - b. In the 1st core function: add a duty for the Department to prioritize programs within the 8 focus areas that can facilitate a positive environmental impact, without creating new City services or programs.
2. Create Section of Administrative Organization Applicable to All Departments – Does the Council want to request staff work with the Attorney's Office and City Administration to create a section of Title 2 for topics applicable to all departments (see write-up earlier in this report)?
3. Minimize Redundancies; Specify a Lead Department – As the Council considers the amendments to the authority of the Sustainability Department and, will, in the future, consider the role and authority of other departments through the Title 2 revision process, it may want to consider encouraging the Mayor to identify which department will be identified as the "lead department" for Council identified policy priorities. An objective of these Title 2 revisions is to identify each department's leadership/core functions so everyone—other departments, the Administration, the public, and the Council, know who leads out on City initiatives and collaborates with other departments and stakeholders.
4. No Administrative Organization Section for the Justice Court or the Library – Chapter 2.08 Administrative Organization of *Salt Lake City Code* has sections for every department except for the Justice Court and the Library. The Council may wish to request the Attorney's Office propose an ordinance amendment to add a section for the Library which has a unique role in the City under state law. The Council's role in the Library budget process is unique to other City enterprise funds. The Library Board sets the policy for Library operations. The Council is tasked with reviewing and approving the overall budget and setting the Library's tax rate. A section for the Justice Court may not be needed because the Council recently approved an ordinance amendment establishing it as the third branch of City government (independent of the legislative and administrative / executive branches) as required by recent changes to state law. Note that except for the judges and chief administrator, the Justice Court employees remain City employees.

ADDITIONAL AND BACKGROUND INFORMATION

Summary of the Two Divisions in the Sustainability Department

The Waste & Recycling Division enterprise fund operates like a business where revenues must cover expenses. It provides weekly collection of recycling, yard waste, and garbage as well as to special events, operates a bulk waste collection program "Call 2 Haul," supports the municipal landfill, education and permitting, and oversees implementation of city ordinance requirements for commercial recyclers. There are 57 FTEs in the Waste & Recycling Division. This Division is 90% (\$25.6 million) of the Department's total (\$28.5 million) budget.

The Environment & Energy Division is transitioning away from relying on landfill dividends as a revenue source to be fully covered by the General Fund, and FY2024 is planned to be the last year in that transition. The Environment & Energy Division seeks to advance the City's sustainability, renewable energy, carbon emissions

reduction, and electrified transportation goals jointly adopted by the Mayor and Council (under Resolutions 23 of 2019 and 33 of 2016); it is those policy goals the Department has sought to execute on. It assists departments with environmental assessments typically performed by consultants and compliance, implements strategies to reduce emissions and improves energy efficiency for City operations and resident's activities, address food insecurity, and facilitates greater access to renewable energy. There are eight FTEs in the Environment & Energy Division. The list below includes some current and recent programs, projects, and studies of this Division for reference:

- Air quality incentives program
 - o Note the base program is for residents to exchange gas-powered lawnmowers for electric versions.
 - o A one-time expansion of the program in FY2024 funded vouchers to partially cover the cost of electric bikes and indoor air purification devices (e.g., air purifiers, HVAC filters, and induction stoves).
- Electric vehicle charging stations
 - o Includes internal facing study and work to serve the City's vehicle fleet and external facing study and work for publicly available EV charging stations
- Community renewable energy program
 - o Note the name has evolved over the years including Utah Renewable Communities
- Community food equity assessment
- Environmental testing and remediation coordination

ATTACHMENTS

1. Redlined version of draft ordinance amendment to Section 2.08.120 for the Sustainability Department
2. Memo from the Attorney's Office

ACRONYMS

CRM - Constituent Relations Management

FY – Fiscal Year

TBD – To Be Determined