

# The Role for Local Government in Promoting Environmental Policy, and How Louisville is Mirroring National Trends

*By Cassie Chambers Armstrong\**

## WHY LOCAL GOVERNMENT MATTERS FOR ENVIRONMENTAL POLICY

Increasingly, local governments are leading the way in promoting environmental policies.<sup>1</sup> Since 2016, federal policy failures—such as the United States withdrawal from the Paris Accord—have encouraged local leaders to take steps towards reaching environmental goals.<sup>2</sup> As local governments have done so, many have realized the great potential local governments have in positively shaping environmental policy.

Not only are local governments often more adaptable in reacting to changing environments, but the policies these governments enact can often spread far beyond their borders. The idea is simple: if local environmental policies are successful, perhaps even gathering bipartisan support, it makes it more likely such policies will be widely adopted at a state or even federal level.

Research exists supporting this approach to environmental policy.<sup>3</sup> A 2018 study showed the presence of state-level environmental policies impacted the voting behavior of national legislators.<sup>4</sup> In short, if a state legislative body had adopted specific pro-environment policies, the national legislators representing that area were more likely to vote in favor of

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<sup>1</sup> Hillary Rosner, *How State and Local Governments Are Leading the Way on Climate Policy*, AUDUBON MAGAZINE (2019) <https://www.audubon.org/magazine/fall-2019/how-state-and-local-governments-are-leading-way> [<https://perma.cc/U95J-ZDEC>].

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., Thomas L. Brunell & Brett Cease, *How Do State Level Environmental Policies Impact The Voting Behavior of National Legislators*, 100 SSQ (Nov. 27, 2018), <https://onlinelibrary.wiley.com/doi/epdf/10.1111/ssqu.12559> [<https://perma.cc/4MM6-TXL9>].

<sup>4</sup> *Id.*

increased environmental regulations in their own policy domain.<sup>5</sup> This was true regardless of the legislator's political party.<sup>6</sup>

There are many possible mechanisms to explain this finding, but one possibility is simply familiarity. The status quo bias is a well-documented phenomenon whereby institutions and individuals tend to stick to what is familiar, comfortable, and known.<sup>7</sup> They do so in part because of the uncertainty inherent in policy changes.<sup>8</sup>

Yet when policy ideas are present in a community—albeit at a different level of government and in a slightly different form—it reduces or eliminates the uncertainty. This may make it easier for politicians to support these policies, both because they have a better sense of how these policies may play out in their community, and because these policies—assuming they have a positive impact on the community—may gain support among a politician's constituency. This means a bottom-up policy agenda could be a viable way to move toward implementing environmental policies at a state or federal level.

Louisville, Kentucky is one city engaging in passing pro-environmental policies at a local level.<sup>9</sup> Despite being situated in a state where environmental issues have not been at the top of the state's legislative agenda, this local government has made strides in passing policies around complete streets, tree protection, and renewable energy.<sup>10</sup>

This Comment provides a brief overview of three environmental policy areas gaining traction across America and discusses how Louisville is engaging with these issues. To that end, this Comment seeks to offer an overview both of a few of the pro-environmental policy tools available to cities, and further to discuss how these tools are being utilized in Louisville.

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Raquel Fernandez & Dani Rodrik, *Resistance to Reform: Status Quo Bias in the Presence of Individual-Specific Uncertainty*, 81 AM. ECON. REV. 1146 (Dec. 1991).

<sup>8</sup> *Id.*

<sup>9</sup> See *Sustain Louisville*, <https://louisvilleky.gov/government/sustainability/sustain-louisville> [<https://perma.cc/8FX2-UQSW>] (last viewed Feb. 7, 2021).

<sup>10</sup> *What are Complete Streets?*, SMART GROWTH AM., <https://smartgrowthamerica.org/program/national-complete-streets-coalition/publications/what-are-complete-streets/> [<https://perma.cc/7Y27-6WRR>] (last viewed Feb. 7, 2021).

## I. HOW LOUISVILLE FITS IN

*A. Complete Streets*

The non-profit Smart Growth America describes complete streets as those “designed and operated to enable safe access for all users, including pedestrians, bicyclists, motorists and transit riders of all ages and abilities.”<sup>11</sup> Complete streets are supposed to “make it easy to cross the street, walk to shops, and bicycle to work.”<sup>12</sup>

Advocates for complete street policies often frame the conversation in terms of safety; however, complete streets can have a positive impact from an environmental lens as well.<sup>13</sup> Transportation accounts for the largest share of carbon emissions in the U.S.<sup>14</sup> Providing increased alternative transportation options—or increasing the number of people living in areas where these transportation options already exist—can reduce carbon emissions.<sup>15</sup> Local complete streets policies play into this goal by encouraging walking, biking, public transportation, ride-sharing, and other ways for individuals to move around a community.<sup>16</sup>

Local governments can promote complete streets because of the large role they play in designing, building, and maintaining the local built environment.<sup>17</sup> Although some communities may also contain roads controlled by the state and/or federal actors, most roads in neighborhoods and urban areas are within the purview of local governments.<sup>18</sup> This means local government is empowered to make decisions on their own behalf such as funding sidewalks, implementing bike lanes, and designing crosswalks to better serve those with mobility issues.<sup>19</sup> Of all the communities passing complete streets policies in 2018, 98.5

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *See id.*

<sup>14</sup> Emily Mangan, *Driving Down Emissions*, SMART GROWTH AM. (Oct. 2020), <https://smartgrowthamerica.org/resources/driving-down-emissions/?download=yes&key=47786245> [https://perma.cc/9PC8-SMK4].

<sup>15</sup> *Id.*

<sup>16</sup> AM. PLANNING ASSOC. REP. 559, COMPLETE STREETS: BEST POL'Y & IMPLEMENTATION PRACTICES (Barbara McCann & Suzanne Rynne eds., 2010).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *See id.*

percent were local or regional governments.<sup>20</sup> Approximately 1.5 percent were state-level policies.<sup>21</sup>

The concept of complete streets is one gaining popularity in recent years.<sup>22</sup> In 2006, only fourteen states had any policies promoting complete streets at the local level.<sup>23</sup> As of 2018, every state except Vermont had at least one local complete streets policy.<sup>24</sup> Fourteen states had more than twenty such policies.<sup>25</sup> These states did not fall along typical partisan lines. States having the most complete streets policies include the likes of Florida, Georgia, Iowa, New York, and California, with whom no one would accuse of having similar political landscapes.<sup>26</sup>

However, there is still much work to be done by local governments in the complete streets arena. The National Complete Streets Coalition has identified ten elements any complete streets policy should include.<sup>27</sup> These elements include design criteria and guidelines, key performance measures, project selection criteria, implementation steps, a focus on equity, and more.<sup>28</sup>

Yet, the vast majority of complete streets policies do not contain all of these elements.<sup>29</sup> Of the 1,477 communities adopting complete streets policies in 2018, only sixty-six received a perfect score based on the identified criteria.<sup>30</sup> Thus, a focus on writing a more comprehensive complete streets policy, funding the goals identified under these policies, and implementing complete streets infrastructure offers a tangible way for communities to make significant headway in a pro-environmental policy arena.

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<sup>20</sup> Natasha Riveron, *The Best Complete Street Policies of 2018*, SMART GROWTH AM. (May 2019) <https://smartgrowthamerica.org/wp-content/uploads/2019/05/Best-Complete-Streets-Policies-of-2018.pdf> [<https://perma.cc/FJ6D-9DW7>].

<sup>21</sup> *Id.*

<sup>22</sup> *Complete Streets Policies Nationwide*, SMART GROWTH AM. <https://smartgrowthamerica.org/program/national-complete-streets-coalition/publications/policy-development/policy-atlas/> [<https://perma.cc/6LFF-39F4>] (last viewed Apr. 8, 2021).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *The Elements of a Complete Street*, SMART GROWTH AM. <https://smartgrowthamerica.org/wp-content/uploads/2018/02/CS-Policy-Elements.pdf> [<https://perma.cc/FE8F-XNYQ>] (last viewed Apr. 8, 2021).

<sup>28</sup> *Id.*

<sup>29</sup> Riveron, *supra* note 20.

<sup>30</sup> *Id.*

Louisville, Kentucky has been a leader in complete streets policy.<sup>31</sup> In 2019, Louisville updated its complete streets ordinance, and its accompanying Louisville Metro Complete Streets Manual is among the most thorough documents of its kind in the country.<sup>32</sup> While some cities have policy statements, and others have design documents, Louisville is one of the few incorporating both into a single, landmark document.<sup>33</sup> In this way, Louisville is and can continue to be a national leader in complete streets policy.

### *B. Parks and Green Space Policy*

A related area that local governments can have significant policy impact is through a local park and green space policy. The impact of the Covid19 pandemic on use of state and national parks has been well-documented. Both levels of parks (federal and state) have struggled to keep up with the demand placed on them as other activities have closed.<sup>34</sup> Local parks have experienced similar strain.<sup>35</sup> In Louisville, the local government closed its parks to vehicles to ensure more space for those utilizing public green spaces during the pandemic.<sup>36</sup>

The environmental impacts of public green space are well known and include mitigating urban heat, managing stormwater quality and quantity, air quality benefits, acoustic insulation from urban sound, and more.<sup>37</sup> Further, green spaces can have more than just environmental benefits. They are also associated with increased economic activity for nearby businesses, increased economic value of nearby properties, greater physical well-being

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<sup>31</sup> *Complete Streets*, LOUISVILLE-JEFFERSON CTY. METRO GOV'T <https://louisvilleky.gov/government/complete-streets-0> [https://perma.cc/4J9P-WAWD] (last viewed Apr. 8, 2021).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Ericka Bolstad, *State parks have been full of visitors amid the pandemic, but can budgets and regulations keep up*, USA TODAY (Sept. 9, 2020), <https://www.usatoday.com/story/travel/news/2020/09/08/state-parks-struggle-keep-up-covid-19-travel-demand/5707497002/> [https://perma.cc/3RYN-83KA].

<sup>35</sup> *Id.*

<sup>36</sup> *Mayor Fischer prohibiting motor vehicles in some Metro parks to give more room to walkers, runners, and cyclists*, LOUISVILLE-JEFFERSON CTY. METRO GOV'T (Apr. 8, 2020), <https://louisvilleky.gov/news/mayor-fischer-prohibiting-motor-vehicles-some-metro-parks-give-more-room-walkers-runners-and> [https://perma.cc/MD79-FNRQ].

<sup>37</sup> Judy Bush, *The Role of Local Government Greening Policies in The Transition Towards Nature-Based Cities*, 35 ENV'T INNOVATION & SOCIETAL TRANSITIONS 35–44 (2020).

of users, and higher reported feelings of social cohesion.<sup>38</sup> Given the many positive impacts associated with parks and green spaces, it is a natural area for local governments to pursue broad-based environmental policy, and to build the political coalitions necessary to move forward.

One of the particular policy areas local governments can influence around parks, open spaces, and green spaces is tree policy. There is a direct and strong relationship between tree coverage and urban heat.<sup>39</sup> Similarly, trees remove fine particulates from the air, and can improve air quality.<sup>40</sup> The fact that tree density is lowest in lower income neighborhoods contributes to health disparities, and those living in these “urban heat islands” experience disproportionate impacts from the lack of tree density.<sup>41</sup>

One type of policy useful in helping to build and maintain a tree canopy is a “no net loss” policy.<sup>42</sup> In Atlanta, for example, the local tree ordinance reads “there will be no net loss of trees in the city.” Private citizens who wish to remove a tree larger than 6 inches in diameter must get a permit from the city, or risk a fine.<sup>43</sup> Developers, too, face restrictions on removing trees.<sup>44</sup> In 2016, the city added a “Tree Trust” amendment, which allowed city funds to be used to purchase forested property to protect the existing canopy.<sup>45</sup> Atlanta’s robust tree policy is part of the reason the city still has more than a 40 percent tree canopy.

Another way cities can promote green and open space is through funding and implementing pocket parks. Pocket parks are small areas—often just a single house lot—transformed into neighborhood parks and green spaces.<sup>46</sup> Pocket parks have the potential to provide green space in more densely packed urban

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<sup>38</sup> *Id.*

<sup>39</sup> Elijah Mckenzie, *Green Space: Suffer the Little Tree*, LOUISVILLE INSIGHT (Sept. 24, 2018), <https://louisvillefuture.com/archived-news/green-space-suffer-the-little-trees/> [https://perma.cc/4XK7-34PB].

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> GA. TREE ORDINANCES, REMOVAL PERMITS & CITY ARBORISTS, *Tree Removal Permit*, <http://www.treeremovalpermit.com/georgia/atlanta-ordinance-permit-city-arborist/> [https://perma.cc/8H3G-4AEX] (last viewed Apr. 8, 2021).

<sup>43</sup> *Id.*

<sup>44</sup> CITY OF ATLANTA TREE ORDINANCE, ch. 74, art. II (2020).

<sup>45</sup> *Id.*

<sup>46</sup> *Creating Mini-Parks for Increased Physical Activity*, NAT’L RECREATION & PARK ASS’N (2009), <https://www.atlantaga.gov/Home/ShowDocument?id=21234> [https://perma.cc/4C2E-WFNW].

areas, as green space has traditionally been harder to come by in those areas.<sup>47</sup> Additionally, lower income neighborhoods—which have historically been under-invested in when it comes to creating green infrastructure—can use pocket parks as a tool to tackle existing inequities and disparities.<sup>48</sup>

One useful aspect of pocket parks is that they can be erected on vacant or abandoned properties.<sup>49</sup> Cities often struggle to deal with these properties, as their existence leads to decreased property values, increased neighborhood fragmentation, and higher community isolation.<sup>50</sup> Thus, pocket parks offer cities a cost-effective and powerful policy tool to revitalize struggling neighborhoods.

Louisville has utilized both tree ordinances and pocket parks as a way to achieve their environmental goals.<sup>51</sup> In 2020, the city amended its tree ordinance to require developers to preserve more of the city's tree canopy when undertaking particular types of projects.<sup>52</sup> A 2017 amendment to the policy required any tree removed from the public right-of-way be replaced—the new policy goes further and requires street trees for all land uses along public right of ways.<sup>53</sup> Similarly, pocket parks are springing up all over Louisville as a way to increase green space and deal with a decreasing tree canopy.<sup>54</sup> A next step for the city, however, might be to focus on implementing pocket parks in areas with less green infrastructure, such as certain areas of West Louisville.

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<sup>47</sup> *Id.*

<sup>48</sup> Delfina Grinspan et al., *Green Space: An Underestimated Tool to Create More Equal Cities*, WORLD RES. INST. (Sept. 29, 2020), <https://www.wri.org/blog/2020/09/green-space-social-equity-cities> [<https://perma.cc/6LJE-9BDE>].

<sup>49</sup> *Creating Mini-Parks for Increased Physical Activity*, *supra* note 46.

<sup>50</sup> Patrick Sisson, *The High Cost of Abandoned Property, and How Cities Can Push Back*, CURBED (June 1, 2018, 6:46 PM), <https://archive.curbed.com/2018/6/1/17419126/blight-land-bank-vacant-property> [<https://perma.cc/Y9BS-2TV9>].

<sup>51</sup> Ryan Van Velzer, *Louisville Adopts Tree Ordinance Preserving More Urban Canopy*, 89.3 WFPL (Apr. 24, 2020), <https://wfpl.org/louisville-adopts-tree-ordinance-preserving-more-urban-canopy/#:~:text=The%20new%20ordinance%20requires%20new,of%20planting%20or%20preserving%20trees> [<https://perma.cc/4LYM-WNEY>].

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Pocket Parks*, LOUISVILLEKY.GOV, <https://louisvilleky.gov/government/parks/pocket-parks> [<https://perma.cc/2YZB-PW9Y>] (last viewed Apr. 8, 2021).

*C. Renewable Energy Policy*

A third policy lever local governments can explore is renewable energy. Renewable energy is energy coming from natural resources not finite or exhaustible—such as sunlight and wind.<sup>55</sup> In contrast, non-renewable energy resources consist of oil, gas, and coal.<sup>56</sup> The negative environmental and health impacts of nonrenewable energy resources are well-documented and the main cause of today’s global warming crisis.<sup>57</sup>

Cities are particularly capable of addressing the issue of climate change since they account for more than 70 percent of greenhouse gas emissions.<sup>58</sup> This may explain why many cities have begun to implement policy moving their municipal operations—and sometimes the entire city community—toward renewable energy.<sup>59</sup> Additionally, policy choices at the federal level have spurred many local governments to step up on this policy issue.<sup>60</sup>

One policy growing in popularity is the call for 100 percent renewable energy. By 2019, over 100 cities across America had passed resolutions or ordinances calling for 100 percent renewable energy within their local governments and/or larger communities.<sup>61</sup>

Louisville passed its own such resolution in 2020.<sup>62</sup> Its passage followed a twenty-month campaign by community

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<sup>55</sup> Just Energy, *7 Types of Renewable Energy: The Future of Energy*, JUST ENERGY, <https://justenergy.com/blog/7-types-renewable-energy-future-of-energy/#:~:text=Renewable%20energy%20is%20energy%20that,less%20harmful%20to%20the%20environment> [https://perma.cc/C62B-EZWM] (last viewed Apr. 8, 2021).

<sup>56</sup> *Nonrenewable Resources*, NAT’L GEOGRAPHIC SOC’Y. (last updated Oct. 24, 2019), <https://www.nationalgeographic.org/encyclopedia/nonrenewable-resources/#:~:text=There%20are%20four%20major%20types,the%20name%20%E2%80%9Cfossil%E2%80%9D%20fuels.> [https://perma.cc/8Y9K-3VR8].

<sup>57</sup> *Id.*

<sup>58</sup> Tatsatom Gonçalves and Yuning Liu, *How US Cities and Counties Are Getting Renewable Energy*, WORLD RES. INST. (June 24, 2020), <https://www.wri.org/blog/2020/06/renewable-energy-procurement-cities-counties> [https://perma.cc/5PY6-PJ36].

<sup>59</sup> *Id.*

<sup>60</sup> David J. Hess and Haley Gentry, *100% Renewable Energy Policies in U.S. Cities: Strategies, Recommendations, and Implementation Challenges*, 15 SUSTAINABILITY: SCI., PRAC., AND POL’Y 45–61 (2019).

<sup>61</sup> *Id.*

<sup>62</sup> *Louisville’s Energy Future: A Path to 100% Renewable Energy by 2040* (Aug. 2020), <https://www.stpaulchurchky.org/wp-content/uploads/2020/09/REALLouisvilles-Energy-Future-a-planning-document.pdf> [https://perma.cc/2DU4-V4B3].



leaders.<sup>63</sup> Although it was a non-binding ordinance, the city has taken steps to realize the goals contained therein, including taking steps to conduct an energy audit to understand the city's energy usage and hiring an energy manager to help the city reach its renewable energy goals.<sup>64</sup>

Across America, many cities are seriously pursuing renewable energy goals. Increasingly over time, cities have shifted toward purchasing power from renewable energy resources. In 2018 and 2019, local governments made three times the renewable energy purchases than they did in 2017.<sup>65</sup> Many local governments procure their solar energy through power purchase agreements, whereby a solar developer allows a city to purchase energy from off-site utility-scale solar projects.<sup>66</sup> These agreements account for 90 percent of the renewable energy procured by U.S. local governments.<sup>67</sup>

On site and community solar projects account for the rest of the renewable energy procurement.<sup>68</sup> While these projects tend to be smaller, they are less expensive, motivating some cities to implement them solely to build support for renewable energy within their communities.<sup>69</sup> Cities may, for example, place solar panels on the roofs of government buildings such as libraries to normalize solar energy, educate the public about it, and build community enthusiasm for renewable energy goals.

## CONCLUSION

Cities have many policy levers to utilize in order to have a positive impact on environmental goals. Some of these have to do with the way they design and fund environment goals, while others are based on land use policy and zoning law. Still others center on how a local government deploys its financial resources. When used simultaneously and in combination, they create a powerful toolkit cities of all sizes can influence environmental goals both within their borders and beyond.

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<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Gonçalves, *supra* note 58.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

Louisville, Kentucky has been an active participant in the movement of local governments to support pro-environmental policies. Although there is more work to be done, the city is recognizing the importance of environmental goals and taking steps to pass policies to further them. These policies will have impacts beyond just the city borders and will hopefully inspire other cities and the state to take similar action.