

# **CONSOLIDATED CITY OF INDIANAPOLIS AND MARION COUNTY POLICY FOR TACTICAL URBANISM**

## **1. Policy and Purpose.**

In the wake of increased traffic fatalities and the public desire to increase the overall livability, vibrancy, walkability and resilience of neighborhoods, tactical urbanism has emerged as a tool to test, pilot, demonstrate and collect data on changes within the public rights-of-way, easements and spaces (collectively, “public right(s)-of-way”) that are owned or controlled by the Consolidated City of Indianapolis (“the City”). The City’s Department of Public Works (“DPW”) has developed this policy to implement a systematic process to evaluate potential tactical urbanism projects (“Policy”). For purposes of this Policy, tactical urbanism consists of small-scale, low-cost and temporary demonstration projects to include, by way of example and not limitation, the placement of objects and/or pavement markings within the rights-of-way for the purpose of slowing motorists and testing new measures for enhancement to street safety.

DPW’s primary purpose for this Policy is to exercise direct control over the strategy, safety, deployment, maintenance and removal of tactical urbanism elements within the public rights-of-way in the City. A process to evaluate potential tactical urbanism projects will further that purpose by enabling the City to ensure that the projects are carried out in a manner that is safe and in accordance with local, state and federal laws. The City also seeks to achieve three secondary purposes in establishing this program: (1) to promote street safety and activity that enhances the aesthetic appeal of public areas; (2) to further a sense of place in Indianapolis’s neighborhoods; and (3) to showcase the creativity and public-spiritedness of individuals and organizations in our community.

Tactical urbanism projects can potentially disrupt transportation and stormwater management services and cause hazards if done without proper evaluation and the use of proper materials. Accordingly, such potential adverse effects of the installation of tactical urbanism in public rights-of-way warrants careful consideration and evaluation through a permitting process.

DPW is responsible for the construction, operation, repair and maintenance of all public streets and stormwater systems and the protection of the City’s investment in its infrastructure systems and facilities. The City’s Department of Business and Neighborhood Services (“BNS”) is responsible for, among other things, controlling all activities and work performed in, on, under and over the public rights-of-way and for enforcing compliance with regulations adopted by the Board of Business and Neighborhood Services (the “BNS Board”).

Chapter 645 of the Revised Code of the Consolidated City of Indianapolis – Marion County (the “Code”) establishes a general policy and regulatory framework for the utilization of the public rights-of-way for the public health, safety and welfare and to promote economic development in the Consolidated City. Code § 645-111. BNS issues permits for activities and work performed in public rights-of-way and for conducting inspections to ensure compliance with the Code and BNS Board regulations. Code § 645-322(a). A permit for work in the public right-of-way is required pursuant to Code § 645-324. Regulations and policies that apply to activities in the public rights-of-way may be proposed by BNS in consultation with DPW.

Code § 645-322(b). This Policy, although developed by DPW, is intended to take effect only with the full approval of BNS and after its presentation to, and approval by, the Board of Public Works. If adopted, the Policy will establish the criteria upon which a tactical urbanism project in the public right-of-way may be granted.

Tactical urbanism projects installed prior to the adoption of this Policy shall not be considered as precedent which would serve to guide any future decisions as to approval or denial of any proposed tactical urbanism projects. Tactical urbanism is considered a temporary occupancy of public rights-of-way. Therefore, DPW reserves the right to remove or require removal of any or all components of tactical urbanism projects with or without written notice to any sponsor thereof.

## **2. Tactical Urbanism Projects**

Tactical urbanism projects are carried out by neighborhood/community groups, businesses, grassroots organizations and other private sponsors. Tactical urbanism projects are temporary in nature, ranging from a few weeks to a few months. Some of the purposes of tactical urbanism are to:

- improve public awareness of good urban design, street safety, functionality
- improve visibility for vulnerable street users such as pedestrians, bicyclists and those using personal mobility devices
- encourage street-level activity and commerce
- renew a sense of vibrancy within the public realm
- inspire action and change
- test, collect data and analyze impacts of various designs and interventions

### **A. Eligible Applicants.**

Any person or organization may propose tactical urbanism in the public right-of-way by making an application for a tactical urbanism project. The applicant must be the person or organization who will be the permit holder, the sponsor of the project and the party responsible for the installation and maintenance of the proposed project (the “Project Sponsor”). The Project Sponsor will install and maintain the tactical urbanism project solely at its own expense.

Although the City will not lead tactical urbanism projects, it will provide input on potential designs to the Project Sponsor throughout the process. Project Sponsors must prove their fiscal ability to install, maintain, and remove the project.

### **B. Eligible Elements.**

One of the primary purposes of tactical urbanism is to encourage creativity and try new ideas. Project Sponsors may pursue projects which include the following elements:

- Protected bike lanes
- Chicanes

- Signage
- Parklets
- Slip lane closures
- Bump outs
- Micro-roundabouts
- Public art
- Overhead décor (with the stipulation that it be high enough for clearance and not interfere with surrounding activity)

Other elements not listed above may be presented by the Project Sponsor for consideration by DPW.

Any public art incorporated into a tactical urbanism project must adhere to the requirements of the City's existing Art in the Right-of-Way Policy, which explicitly prohibits using art as crosswalks. However, art may be placed in other areas of the right-of-way, so long as it does not interfere with the basic functions of the right-of-way or present a safety hazard.

C. Materials.

Use of recycled materials and creative re-purposing is encouraged. Listed below, by way of example and not limitation, are some of the acceptable materials that may be used for various purposes:

- Water-based paint
- Traffic tape
- Recycled tires
- Planters
- Rope
- Wood
- Signage
- Reflective items
- Bollards
- Traffic cones
- Straw bales
- Sandbags

When applying for a permit to implement a tactical urbanism project, Project Sponsors must provide a list of proposed materials.

D. Pilots vs. Demonstrations.

There are two tracks that Project Sponsors may pursue in proposing a tactical urbanism project: Demonstration Projects and Pilot Projects. Demonstration Projects have a duration of 30 days or less using materials meant to only last for a short period of time. At the end of the demonstration period, the project will be removed and the data regarding its performance will be documented. Pilot Projects, on the other hand, have a duration of more than 31 days, but less than one year. Pilot Projects should use more durable materials that

require minimal maintenance or oversight. An advantage of Pilot Projects is that they allow for the collection of more valuable data over a longer period of time.

Due to safety and efficacy concerns given winter weather events, tactical urbanism projects will generally be prohibited from November through March, though DPW may approve a project during those months on a case-by-case basis, depending on the project type and materials proposed.

E. Where Tactical Urbanism Projects May Be Implemented.

Projects may be implemented within the public rights-of-way of residential and local streets or collector streets. DPW may approve projects on primary or secondary arterial streets on a case-by-case basis, depending on the project type and materials proposed. Projects may also incorporate greenway trails into their overall approach but must not interfere with the safe and efficient passage of trail users. Tactical urbanism projects *may not* be carried out on:

- Rights-of way controlled by entities other than the City, such as those controlled by INDOT, the cities of Lawrence, Beech Grove and Southport, and the town of Speedway
- Public transportation assets, such as rapid transit stations and bus lanes
- Railroad rights-of-way
- Crosswalks on any street if the proposed project does not comply with crosswalk pavement marking requirements of the Indiana Manual of Uniform Traffic Control Devices (IMUTCD)

**3. Tactical Urbanism Project Permit Applications.**

Applications for a tactical urbanism project permit may be on a form prescribed by BNS and, at minimum, shall contain the following information:

- A. Applicant Identity. Information about the Project Sponsor, including name, address and contact telephone number and email address. If a permit is issued, the Project Sponsor has a duty to inform BNS of any changes to this information.
- B. Location. Information about the location of the proposed, including:
- i. A written description using landmarks or GPS coordinates;
  - ii. An aerial image of the location; and
  - iii. Photographs of the location at the time of submission.
- C. Description and Design Plan. A description of the proposed project, including:

- i. A written description describing the elements of the proposed project, including whether it is a Demonstration Project or a Pilot Project, and detailing its duration;
- ii. A written explanation of the Project goals, including any current data or inferences related to the Project area, and what the Project Sponsor hopes to accomplish;
- iii. A visual depiction of the proposed elements to be installed in sufficient detail to convey what the project will look like when completed, including detailed measurements;
- iv. A detailed design plan, including detailed measurements, which depicts the proposed project in relation to the public right-of-way and its components, including the roadway, shoulder, curbs, sidewalks, crosswalks, traffic control devices, signage, drainage facilities and utility facilities, as well as reasonably detailed information sufficient to determine the proposed exact placement of project elements in relation to the surroundings. Project elements that include structural components must be signed and sealed by an Indiana-licensed professional engineer.

D. Installation Plan. A written plan for installation of the proposed project, including:

- i. A schedule with an estimate of the time it will take to install the proposed project; and
- ii. A temporary traffic control plan for installation, maintenance and removal of the project, which comply with all applicable local, state and federal standards regarding maintenance of traffic during work within the public rights-of-way.

E. Maintenance Plan. A written plan detailing the maintenance of the elements of the proposed project during the duration of the project, including:

- i. A description of all foreseeable activities required to maintain the project elements;
- ii. The frequency of proposed maintenance activities;
- iii. A plan for responding to unforeseeable needs for maintenance, such as the removal of graffiti and repairing damage due to accident, vandalism, or weather events; and
- iv. A description of the Project Sponsor's financial ability to fund regular and unexpected maintenance expenses.

F. Public Input. A written description of the Project Sponsor's efforts to obtain input from owners and occupants of property that will abut or be affected by the proposed project and from any registered neighborhood organization covering the location of the proposed project.

**4. Approval Criteria, Requirements and Restrictions.**

- A. In General. The determination whether to grant an application for a proposed tactical urbanism project shall be made based on the criteria requirements and restrictions set forth in this section. BNS shall obtain the concurrence of DPW before issuing a permit for proposed projects. BNS and DPW may delegate the responsibility to review applications to a partner organization for recommendation as to whether a project should be approved. During the review process, BNS and/or DPW may request that the Project Sponsor make revisions to the materials submitted as part of the application. **All other provisions of this Policy notwithstanding, DPW will determine, in its sole discretion, whether a project proposal meets the City’s overall objectives of allowing for tactical urbanism, and DPW retains the right to reject project proposals which fail to satisfy those objectives, present dangers to the public health, safety and welfare, or which do not comply with the criteria set forth in this Policy.**
- B. Approval Criteria. All applications for proposed tactical urbanism projects shall be reviewed based on the following general criteria:
- i. Conformance to the Spirit of Tactical Urbanism. Tactical urbanism is meant to be a method of temporarily transforming the right-of-way to assess the change for its potential for broader community benefit, such as traffic calming and safety of all users of the public rights-of-way. Tactical urbanism is *not* meant to be used as an opportunity for advertising within the public right-of-way, meeting the desires of individuals with regard to road design, or to serve to benefit only one particular property or business.
  - ii. Public Safety and Security.
    - a. Proposed projects must not negatively impact safety, create a distraction to motorists or create an attractive nuisance. Proposed projects must not obscure sight distance, traffic control devices, signage, or lighting.
    - b. Proposed projects must allow emergency vehicle access with a minimum clearance of twelve (12) feet. Fire hydrants must have a twelve (12) feet of clearance on both sides.
    - c. Proposed projects must not hinder the ability of disabled persons to navigate the built environment.
    - d. Proposed projects must not interfere with regular public service operations, such as solid waste and recycling pickup, public transportation services (bus stops, bus routes, bus-only lanes and rapid transit stations) and utility facilities.
    - e. Proposed projects must not block private driveways and parking lot entrances.
    - f. Proposed projects involving or in close proximity to bus stops of any type, the Project Sponsor must provide written approval from the Indianapolis Public Transportation Corporation (commonly known as “IndyGo”) to incorporate elements of the project into IndyGo assets.

- iii. Visibility. Proposed projects must contribute positively to street corridor continuity and the view from the road. Project elements must be visible and clearly marked. Signage or other markings identifying the Project Sponsor and how to contact the Project Sponsor in the event of a needed repair or maintenance may be authorized, so long as any such signage or markings complies with applicable City sign ordinances and do not cause confusion with traffic control signs and markings in the area.
  - iv. Asset Preservation. Proposed projects must not adversely affect the service life of any infrastructure facilities or systems, or the ability to access all infrastructure components for maintenance.
  - v. Social, Cultural, and Environmental Considerations. Projects must not adversely impact social, cultural and environmental resources. The applicant must abide by all local, state and federal historic preservation and environmental laws, regulations and policies.
  - vi. Potential Conflicts. Proposed projects must not conflict with existing or planned uses of the public right-of-way at the proposed location, including other uses by the City, public utilities, or other parties authorized to use the public right-of-way at the location.
  - vii. Compliance. Proposed projects shall be in compliance with all local, state and federal laws, regulations and policies applicable to the use of or activities in the public right-of-way, including but not limited to the Indiana Manual on Uniform Traffic Control Devices (IMUTCD), specifications and regulations of the Indiana Department of Transportation (INDOT), including its Standard Specifications and its Indiana Design Manual (“Indiana Design Manual”), specifications and regulations of BNS and DPW, the Public Rights-of-Way Accessibility Guidelines (PROWAG), and any other standards generally applicable in DPW’s discretion.
- C. Approval Criteria Restrictions and Requirements. An application for a proposed tactical urbanism project may be denied on any of the following prohibited characteristics, design parameters, and requirements:
- i. In the view of DPW, the proposed project fails to meet the objectives and spirit of tactical urbanism.
  - ii. The proposed project includes characteristics that will distract, pose a safety hazard, or negatively impact traffic flow.
  - iii. The proposed project reduces or interferes with intersection sight distance, stopping sight distance and passing sight distance for motorists.
  - iv. Elements of the proposed project resemble a traffic control device (e.g., a sign, signal, pavement marking, or other device designed to regulate, warn, or guide traffic).

- vi. The proposed project impedes the accessibility of or otherwise poses a safety hazard to pedestrians and those using mobility assistance devices.
- vii. The proposed project will impede water drainage from the public right-of-way.
- viii. The proposed project will interfere with DPW's ability to perform routine maintenance or cause additional maintenance for DPW.
- ix. The proposed project will be installed on or in proximity to an historic district, bridge, or structure, within an ecologically sensitive area, or conflicts with any local, state, or federal environmental or historical commitments, policies and regulations. Such projects may be approved on a case-by-case basis, depending on the project type and materials proposed.
- x. The proposed project contains advertisement of any form, actual or perceived, including a message, text, slogan, logo, graphic, distinctive emblem, trademark, web address, or phone number that identifies a commercial business or a product or service offered by businesses, business complexes, schools, attractions, historical or tourist locations, malls, or other organizations (charitable, non-profit, fraternal, religious, political organizations, etc.); provided, however, DPW may allow project elements to include a logo, emblem or trademark to acknowledge the Project Sponsor or to provide information to contact the Project Sponsor in the event of a needed repair or maintenance, so long as the inclusion does not have as its primary purpose to serve as an advertisement for the Project Sponsor's products or services.

**5. Permit Conditions.** The terms and conditions set forth in this section shall be incorporated by reference into each permit issued by BNS for a tactical urbanism project

- A. Plans. Details of the Project Sponsor's design plan, installation and maintenance plan, including any revisions thereto required by BNS or DPW, shall be incorporated into the permit.
- B. No Vested Rights. No Project Sponsor of any approved tactical urbanism project shall be vested with any property interest in the public permit or the public rights-of-way, and any such permit shall be revocable and subject to the continuing control of the City under its police powers.
- C. Revocation, Expiration and Removal.
  - i. Permits for tactical urbanism projects shall be at all times subject to revocation, in whole or in part, by BNS whenever BNS, on its own or upon the recommendation of DPW or other government officials, shall consider it necessary or advisable to have any elements authorized by any such permit, or any other use, to be removed, the site vacated and the right-of-way properly restored at Project Sponsor's expense and in accordance with any applicable local, state, or federal standards. If the City must remove project elements and materials due to the Project Sponsor's failure to do so,



then these elements and materials will become property of the City of Indianapolis and Marion County and the Project Sponsor shall be liable for the City's costs in doing so.

- ii. BNS shall give written notice to the Project Sponsor of the revocation of a tactical urbanism project permit. Within 30 days of the date of such notice, the Project Sponsor shall (a) remove the tactical urbanism elements and all or any appurtenances thereto, and (b) restore the public right-of-way to a condition reasonably like its condition prior to installation of the project and in accordance with any applicable local, state, or federal standards. BNS may allow the Project Sponsor additional time for the removal and restoration if the sponsor is making reasonable progress toward that end.
- iii. In the event that the Project Sponsor fails to remove all elements of a tactical urbanism project and restore the location within 30 days of the date of notice of revocation of the permit, BNS or DPW may (a) cause the project elements to be removed and the location restored at the Project Sponsor's expense, and/or (b) enjoin and abate the use by appropriate action at law or in equity. In either event, all damages, costs and expenses, including the cost of removal and restoration and reasonable attorneys' fees, incurred or paid by BNS or DPW on account thereof shall be borne by the Project Sponsor and shall be paid to the City upon demand, or be recovered by the City by action thereon.
- iv. If the Project Sponsor removes the tactical urbanism elements, then ownership of all materials composing the project remains with the Project Sponsor. If, however, the tactical urbanism elements must be removed by the City, then the removed materials become the property of the City.
- v. When the duration of an approved project expires, the permit shall expire and the Project Sponsor shall remove the tactical urbanism elements and restore the site as outlined above, and in the event that the Project Sponsor fails to remove the project elements within 30 days following the expiration of the project duration and permit, then the above provisions shall apply as if the permit was revoked.

D. Liability and Indemnity.

- i. The Project Sponsor shall be required to keep the tactical urbanism project and all elements thereof in good order at all times, and upon the Project Sponsor's failure to do so, it shall be responsible to the City and all other persons for any and all damages, judgments and expenses resulting to the City or other persons or property in consequence of any defect or other negligence in the installation, maintenance, or use of a tactical urbanism project or any portion thereof to become and remain out of repair or unsafe.
- ii. The Project Sponsor shall indemnify and hold harmless the Consolidated City of Indianapolis and Marion County, and its officers, agents, officials and employees, for any and all third party claims, actions, causes of action, judgments and liens to the extent they arise out of any negligent or wrongful act or omission or breach of any provision of this Policy, applicable local, state and federal laws, regulations and

standards, or the permit issued for the tactical urbanism project, or arising out of the Project Sponsor's use of the public right-of-way pursuant to said permit, or the existence of the tactical urbanism elements in the public right-of-way. Such indemnity shall include attorney's fees and all costs and other expenses arising therefrom or incurred in connection therewith.

7. **Neighborhood Outreach Prior to Installation.** No fewer than 30 days prior to the date on which the Project Sponsor is to begin installation of an approved tactical urbanism project, the Project Sponsor must provide written notification to all property owners or occupants, including residential and businesses. Ideally, representatives from these demographics will have already been involved in the planning process for the project.
8. **Safety.** The safety of users of the public rights-of-way and those working on behalf of the Project Sponsor in the installation, maintenance, data collection and removal of an approved tactical urbanism project is of utmost importance to the City. Accordingly, all persons involved with the installation, maintenance, data collection and removal of a project, whether they be employees of the Project Sponsor or contractors, agents, or volunteers, must wear bright, visible clothing and adhere to all approved plans for the project when working on the project.
9. **Data Collection.** The primary benefit of tactical urbanism projects is the collection of data concerning its functionality and viability to inform more long-term and permanent solutions. Data collected will vary based upon the type of tactical urbanism elements included in the project. However, the goals of data collection are to examine the following attributes of a project: safety, activity, performance, and public feedback. Project Sponsors must work with DPW to develop a data collection strategy. Examples of the types of data that may be collected are as follows:
  - The number of bicycle riders using the street before and during the project
  - The number of pedestrians using the site before and during the project
  - The number and types of crashes before and during the project
  - The public perception of the impacts of the project
  - Neighborhood survey results

The raw data collected by the Project Sponsor, together with the results of any analysis of the data that is performed, must be shared with DPW for consideration in long-range transportation planning decisions.

10. **Appeals of Adverse Actions.** Any decision to (1) deny an application for a permit for a tactical urbanism project, or (2) revoke a tactical urbanism project permit, may be appealed by the Project Sponsor as follows:
  - i. Appeal to Administrator. The Project Sponsor may appeal the decision by making a written statement to the Administrator of the BNS Division of Construction and Business Services of the Project Sponsor's objection to such a decision not later than 10 days after the date of the notice. The Administrator shall consider the objection in the context of this Policy

and shall render a decision, in writing, and give notice of said decision to the Project Sponsor within 30 days of receipt of the appeal statement.

- ii. Appeal to Director. If the Project Sponsor does not agree with the decision of the Administrator, the Project Sponsor may appeal the decision to the Director of DPW (“Director”) by making a written statement to the Director of the Project Sponsor’s objection to such decision not later than 10 days after the date of the notice. The Director shall consider the objections in the context of this Policy and shall render a decision, in writing, and give notice of said decision to the Project Sponsor within 30 days of receipt of the appeal statement. **The decision of the Director shall be final.**
- iii. Effect of Appeal of Permit Revocation. If an appeal is from a decision to revoke a tactical urbanism project permit, then the provisions of Section 5 of this Policy shall be stayed pending the outcome of the appeal. If the result of the appeal is to sustain the decision to revoke the permit, the stay shall be lifted, and DPW shall remove the tactical urbanism project and restore the public right-of-way in accordance with Section 5 of this Policy.