Local Responses to Oil and Gas Development

“Non-Regulatory Approaches Available to Local Jurisdiction”

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External Approach #1

Create and Foster Relationships.
External Approach #2

Participate in Federal and State Legislative, Administrative, Rulemaking, and Permitting.

- U.S. Forest Service.
- U.S. Bureau of Land Management.
- Colorado General Assembly.
- Colorado Oil and Gas Conservation Commission.
- Colorado Water Quality Control Commission.
- Colorado Air Quality Control Commission.
External Approach #3

COGCC Local Government Designee.
External Approach #4

- Memorandum of Agreement.
- Intergovernmental Agreement.
- Agreements with Industry.
External Approach #5

Lawsuits:

• Refrain from lawsuits but do NOT abstain.
• Get sued…
• And WIN.
Internal Non-Regulatory (Less Traditional) #1

Moratoria. (which leads to “External” Approach #5).
Internal Non-Regulatory (Less Traditional) #2

- Performance Zoning – identifies intended outcomes but allows different ways to accomplish them.

- Form Based Zoning – this technique integrates zoning and design considerations into a regulatory framework.
Internal Non-Regulatory (Less Traditional) #3

- Permit Caps – “rate of growth” mechanism; tied to master plan and/or local government capacity to provide services OR community ability assimilate impacts.
Internal Non-Regulatory (Less Traditional) #4

- Impact Fees – A fee imposed by a local government on new or proposed development to pay for all or a portion of the costs of providing public services for that development (e.g. roads).

- Fee must have a direct connection to the development, and the fee must be proportionate to the impact. (Can “keep up” but can’t use to “catch up”).
Internal Non-Regulatory (Less Traditional) #5

- Watershed Ordinances – See C.R.S. § 31-15-707(b) which authorizes a municipality to protect its source of water- extraterritorially – from pollution/contamination, 5 miles above the point where it is taken (e.g. grading, erosion, sediment control, deposition of material).
Internal Non-Regulatory (Less Traditional) #6

• “1041 Authority”.
Internal Non-Regulatory (Less Traditional) #7

- Double Split Estate Ownership.
Internal Non-Regulatory (Less Traditional) #8

• Conservation Easements (e.g. easement to preserve historic district).
Internal Non-Regulatory (Less Traditional) #9

- Land Reserve: Government can strategically purchase/acquire lands and then issue RFPs in the future to develop lands for a specific purpose (e.g. worker housing).
Internal Non-Regulatory (Less Traditional) #10

• Strategic Investment of Public Infrastructure/Control of Utilities:
  
  Simply deciding where and where not to build roads, water lines, mass transit, etc. can fundamentally affect development patterns.
Internal Non-Regulatory (Less Traditional) #11

• Water Rights: Purchasing or influencing water rights with public dollars.

• See Pitkin County Tax – used public dollars for purchasing water rights.