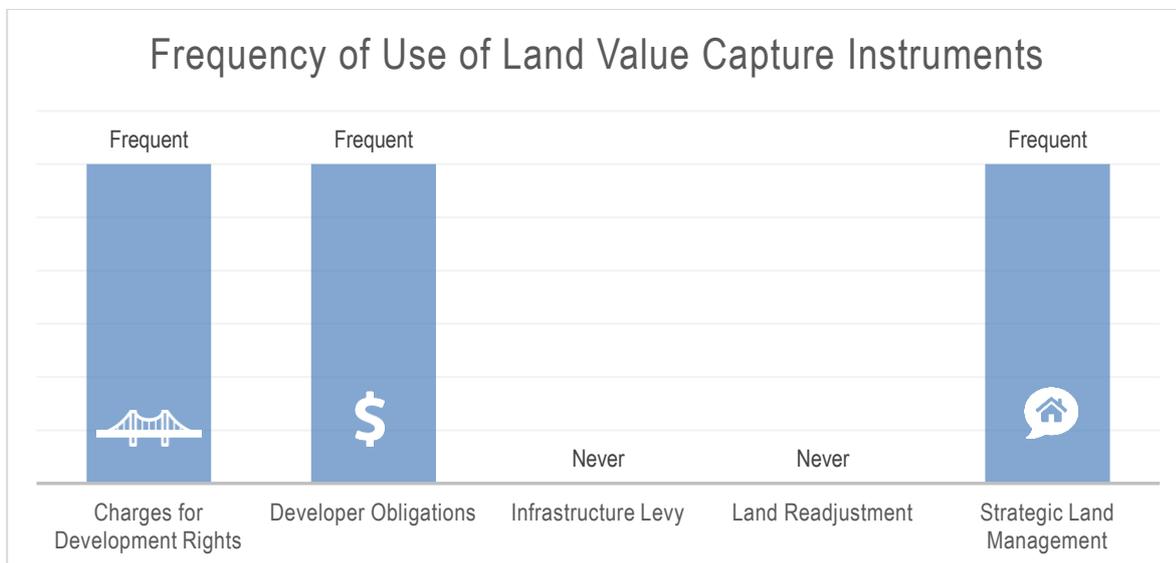


Canada



Several land value capture instruments are systematically used, notably developer obligations, charges for development rights, public land leasing and public land banking. There is sufficient administrative capacity and political will to implement these tools. The main challenges refer to the absence of provincial regulations and resistance by developers and landowners. There is no specific legal framework for land readjustment or infrastructure levy.

Main instruments

Instrument (OECD-Lincoln terminology)	Local name	National legal provision	Implementation	Use
Charges for development rights	<i>Density Bonus, Bonus Zoning, Community Amenity Contributions or Community Benefit Contributions</i>	None	Local governments	Frequent
Developer obligations	<i>Development cost charges or lot levies</i>	None	Local governments	Frequent
Strategic land management	None	None	National, regional and local governments, and special purpose bodies	Frequent (except land leasing)



Enabling framework

Canada is a federal state with two levels of subnational government: 10 provinces and 3 territories at the regional level and 3 959 municipalities at the local level (OECD/UCLG, 2019^[1], p. 528). Municipal structures vary considerably, among towns, municipalities, townships, cities, rural municipalities, municipal districts and villages. In addition, there are Indian reserves, Indian settlements and unorganized territories.

There is no national land use planning. However, there is a National Housing Policy, which provides some synergies with land value capture tools. Provinces and territories have one or more Regional Plans. Provinces create the legal framework of land value capture. They also define the powers and competencies of local governments (OECD/UCLG, 2019^[1], p. 527).

Without Constitutional status, municipalities are “creatures of the provinces”. They enact Master Plans and may prepare detailed plans for smaller geographic areas called *Community Plans*. Municipalities can typically create land value capture instruments and define their operational rules.



Developer obligations

Developers that submit an application for new development or development at higher density may have to offset the impacts of the project on the local infrastructure. For greenfield development, developers must provide in-kind contributions of public utilities and services at municipal standards, such as sewer, water, roads and parking. In addition, developers make cash payments for all external growth related capital costs. Local governments frequently levy developer obligations and collect the revenues.

The calculation formula takes into account the costs of additional infrastructure, as well as the size and type of development. In some provinces, such as British Columbia, local governments calculate the fee separately for each category of infrastructure – water, sewer, drainage, parks, and roads. Once collected, the fee goes to separate reserve funds for each of these categories.

Developer obligations for off-site growth related to capital costs are always paid in cash, whereas for services internal to the subdivision the contribution is in the form of public spaces, roads, parking and other public improvements for the neighborhood. Park land may be either a percentage of the land, for instance, 5% in the province of Ontario, or a cash equivalent in value. It may also be a combination of cash and in-kind. Developers must pay the charge before or at the time the development receives approval.

If the contribution is affordable housing units, the units must be built on-site, within project boundary. The government may grant exemptions from contribution. To illustrate, in the Toronto Region, social housing and nonprofit providers are exempt, especially in the case of high density multifamily developments.

The main challenge to implementation is the lack of legislation in some provinces, without which municipalities cannot charge developer obligations. However, where there is legislation, it is clear and operationalizable. In Ontario, for

instance, the *Development Charges Act* (1989) foresees cash contributions for off-site growth-related developments and in-kind provision for internal services in land subdivision projects.



Charges for development rights

Local governments frequently implement charges for development rights and collect the revenues. Developers who make a request to build at higher density have to pay a combination of cash and in-kind provisions, such as day care facilities, subway station connections and affordable housing units. The value of contribution may vary according to the zone.

If the contribution is affordable housing units, they must be built on-site and be comparable to market-rate ones, in terms of size, design standards and amenities. For units be rented or sold at affordable prices, the project must have a minimum share and size of units, which can vary by jurisdiction and zone. Beneficiaries are households eligible to social welfare programmes.

The collected funds are earmarked for specific purposes, as detailed in local Municipal Plans or Community Plans. Hence, local governments spend the collected funds within the same geographic area of collection. Numerous local governments have applied this instrument, such as Toronto, Ottawa, Burlington, Vaughan, Halifax, Calgary and Vancouver. It has provided significant revenues for them.

The main challenge to implementation is the lack of clear development norms and land use regulations. In the province of Ontario, for instance, the lack of clear guidelines for negotiation of Density Bonuses constituted an obstacle, which led to the preferred adoption of Community Benefit Contributions, in which the maximum contribution is set as 4% of the land value before project approval.



Strategic land management

The priority of strategic land management is to facilitate the provision of social and affordable housing. National, regional and local governments have public departments or agencies in charge of strategic land management. At the federal level, it is the Canada Lands Corporation. Only small municipalities do not have such bodies.

The government acquires vacant or unproductive land, either empty or with structures, through market purchases, government transfers or expropriations. The government typically rezones acquired land but does not redevelop it. There are a number of strategies to assign the land: auctioning it to the highest bidder criterion, selling it in public tenders, leasing it for public projects, such as of social housing, or transferring it to another public entity.

In some circumstances, local governments partner with private actors, forming Public Private Partnerships. The objective is to facilitate the redevelopment of social housing, but also to improve neighborhood facilities such as schools, parks and sports stadiums. Recently, the Toronto Community Housing Corporation has undertaken a comprehensive approach to rebuild over 2,000 social housing units in Regent Park. The private developer received land to build private market condo units and in exchange will rebuild social housing units and provide community facilities and public parks.



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Community Land Trusts are non-profit corporations that act in strategic land management, especially due to recent surges in housing prices. They buy land to develop or facilitate the development of social housing. They can operate as a cooperative, under a lease-to-own model or act mainly as a facilitator of further development. The challenge is to acquire reasonably priced land to start or expand the land trust, preferentially in blocks of concentrated parcels. Government support in the form of sale below market values or subsidies may be required.

Land leasing serves to generate public revenues and provide land for development with public purpose. Lease length varies with the permitted uses: residential, social housing or other social purposes tend to be long term, whereas commercial purposes tend to be shorter.

However, leasing is uncommon. For one, the government holds little land available to lease. Moreover, this practice is not widely accepted in Canadian property culture. Real estate developers have resistance to building on land that they do not own. Still, there are examples of social housing projects on publicly leased land in the cities of Vancouver and Toronto.

The main challenges to strategic land management are the lack of financing for land acquisition, the insufficient amount of land to lease, the aforementioned property culture and the lack of coordination between public entities. To this point, it is worth mentioning the work of the National Executive Forum on Public Property, which is an organization of federal, provincial and municipal agencies in charge of public real estate and land portfolio. Although it is not a formal coordination mechanism per se, it functions as a knowledge-sharing forum to advance common practices and establish ways to optimize the management of public real estate in Canada.