

Hamilton • Analysis

MZOs have been a trump card for the Ford government – here's why it's a serious Ontario election issue

A Minister's Zoning Order lets the province bypass local planning rules to expedite developments

[Bobby Hristova](#) • CBC News •

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Doug Ford, shown at a media briefing at the Ontario Legislature in Toronto on Dec. 17, 2021, is premier of a Conservative government that has issued 44 Minister's Zoning Orders from March 2019 to March 2021 — double the total issued the previous 18 years. Some political opponents says MZO's give the government too much power. (Chris Young/The Canadian Press)

A brooding, red brick building with boarded-up windows sits on the Hamilton mountain.

A 23-hectare wetland full of tall grass and bulrushes that birds flock to while migrating is nestled south of Highway 401 near Pickering, Ont.'s border with Ajax.

While a little over 100 kilometres separate Hamilton's Century Manor, a 138-year-old former psychiatric hospital, and Pickering's Duffins Creek, a provincially significant and protected wetland, they have something in common — they've been subject to a powerful and controversial tool the Ford government has used to accelerate development throughout Ontario.

A Minister's Zoning Order, or MZO, is a trump card that lets the province immediately authorize development and bypass local planning rules to expedite what it wants built. Although they can be subject to a judicial review, MZOs can't be appealed or rescinded, unless the province does so.

The Conservative government says MZOs have helped fight the housing crisis and health-care capacity issues.

Its political opponents, however, say the tool gives the province too much power and is poised to be a big issue leading up to the June 2 provincial election, as land planning can affect the environment, health, housing prices, heritage buildings, traffic and the demand for major infrastructure.

"With the stroke of a pen, a developer can go in and start building on land, whether it's historically important or it's on wetlands ... it is a really heavy-handed tool for the government to be using when it comes to how we plan to build our cities," said Sandy Shaw, the NDP's environment critic and MPP for Hamilton West—Ancaster—Dundas.

Auditor general criticized use of MZOs

The Office of the Auditor General of Ontario criticized the Ford government's use of MZOs in its [2021 report](#).

It says MZOs were originally intended to be used sparingly, such as in areas with no municipal governance or to quickly advance provincial initiatives.

But that's not happening now, according to the report.

The province issued 44 MZOs from March 2019 to March 2021 — double the total issued the previous 18 years.

"Prior to this, an MZO was issued about once a year," read the report.

The Ministry of Municipal Affairs and Housing didn't immediately respond with the current number of MZOs it has issued.

"Our audit found that the recent rise in the use of and lack of transparency in issuing MZOs is inconsistent with good land-use planning principles ... this approach treats the land-use planning process as a hurdle," the report said.

Of the 44 MZOs, 18 were issued on lands previously zoned for agricultural use or natural heritage protection, 13 were to build long-term care homes, 10

were to build affordable housing and five were in response to the pandemic.

It said 26 of the 44 MZOs didn't include proper consultation in municipalities with regional governments (e.g., Halton or Niagara), and 13 of the 44 would permit development on lands outside municipal settlement boundaries where there might not be any planning yet.

Also, 17 of the 44 MZOs were for the same development companies or group of companies, according to the report.

"The way Doug Ford and his friends have gone about using the MZOs over the past couple of years are completely outside the norm," said Ontario Liberal leader Steven Del Duca.

The auditor general made four recommendations regarding MZOs, including:

- Work with municipalities to make land-use planning more efficient while still following rules under the Planning Act.
- Creating a formal review process for MZOs

- Incorporating and documenting consultation with municipalities
- Publicly stating if an MZO is consistent with the Provincial Policy Statement and, if not, how the province will mitigate negative impacts.

The province only addressed the first recommendation, according to the report.

Province defends use of MZOs

The Ministry of Municipal Affairs and Housing declined an interview, but spokesperson Zoë Knowles said the Liberals and NDP haven't done enough to address issues like the housing crisis when in power.

"Maybe if they had used MZOs to build housing, long-term homes and expand hospitals, we would not have the housing crisis or health-care capacity challenges that our government is addressing today," she wrote.

She also said MZOs have accelerated the creation of:

- Over 58,000 new homes, including over 600 supportive housing units.
- Over 68,000 new jobs.
- Over 4,100 new long-term care beds.

Knowles said the government "has been clear" it won't use MZOs to build on the Greenbelt, and pointed to an MZO in Guelph that the city's mayor [said](#) helped protect local drinking water.

"That's one of the rare and extraordinary examples of how a Ministerial Zoning Order can be used to actually protect people, communities and the environment, and went through a process that had extensive and proper community and First Nations consultation," said Ontario Green Party Leader Mike Schreiner.

Knowles added MZOs issued on non-provincially owned land come at the request of the local elected council, with a supportive council resolution.

But opposing political parties point to two examples of MZOs being used questionably.

Century Manor and Duffins Creek

In Hamilton, Shaw points to how an MZO disrupted local plans for the historic [Century Manor](#).

Mohawk College had plans to turn it into a student residence after making a deal with the former Liberal provincial government.

The college planned to invest \$9 million to restore Century Manor and pay \$9.52 million to buy 8.5 hectares of land to expand its campus.

The province was set to use that money and \$5.5 million of its own to build a tower with 20 per cent affordable housing.



NDP MPP Sandy Shaw says the province's MZO swallowed up a solid plan between the city and the previous Liberal government for Century Manor. (Samantha Craggs/CBC)

"It was a community-led plan that had multiple benefits for residents and the government just issued an MZO that wasn't asked for against the

municipalities wishes," Shaw said, noting she's asked the province numerous times to rescind the order.

The college previously told CBC its interest in the property waned because of the government's vision for the land and because online classes meant it didn't need it as much anymore.

The government recently put the [land up for sale](#) to create a property with long-term care homes.

Duffins Creek is another example that Shaw, Del Duca and Schreiner point to as the problem with how MZO's are being used.

"It's especially troubling when we know wetlands are essential to cleaning our drinking water and protecting us from flooding," Schreiner said.



Amazon was considering building what would be the largest retail warehouse in Canada on this Pickering property, roughly half of which is classed as a provincially significant wetland. (Patrick Morrell/CBC)

The province issued an MZO to allow for a developer to build a warehouse for Amazon on the wetland, but faced heavy opposition from the public.

The government reduced the power of conservation authorities to block development, introduced a bill to retroactively remove a ban on construction on a protected wetland and ordered the Toronto Region Conservation Authority to issue a development permit for the site.

But Amazon [backed out of the deal](#).

How other parties would use MZOs

Del Duca said the Liberals would eliminate MZOs and replace them with something more limited.

"We would only permit an expedited process in planning that would be targeted toward provincially significant projects, for example, not-for-profit

long-term care, true affordable housing ... [and] certain kinds of employment," he said.

"It's supposed to be a tool of last resort, not a weapon of first instance."

He'd also reinstate a judicial review of MZOs and require more public consultation.

Schreiner said the Greens would ensure MZOs were in compliance with the provincial policy statement and local rules.

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He also said the public would get adequate time to offer feedback and appeal MZOs. He added the party would uphold its duty to consult First Nations communities.

Shaw said the NDP would rescind MZOs for any protected lands like wetlands.

"Who is benefiting from all these MZO's that are allowing development on wetlands, on historical sites?"

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