

## Legislative Overview – Minister’s Zoning Orders (MZOs)

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### Summary

On July 21, 2020, following a very expedited process, the Ontario government passed the [COVID-19 Economic Recovery Act, 2020](#). This omnibus legislation amended 20 pieces of legislation including the *Building Code Act*, *More Choice, More Homes Act* (Bill 108), *Places to Grow Act*, and the *Planning Act*. Nearly half of the legislation is specifically targeted toward amendments to the [Environmental Assessment Act](#).

Although much of the criticism of the *COVID-19 Economic Recovery Act, 2020* was initially directed at the environmental impacts that it may have, concerns are now also focused on the use of Minister’s Zoning Orders (MZOs) as implemented through the Act.

### Background

MZOs are not new, however members will begin to see an increase in their use as a result of the new legislation. MZOs are tools that are used to expedite the planning approval process and may result in bypassing some otherwise requisite approvals and/or site plan requirements, such as public consultations and traffic studies.

For members whose projects are subject to an MZO, their professional roles and responsibilities must be upheld. Neither a member’s duty of care nor professional standards change as a result of an MZO being issued.

Although some MZOs may have a benefit to the project owner and to the public, others may have severe consequences, such as negative environmental impacts. Regardless of the content of an MZO, minimum safety standards must be upheld. Members are encouraged to use their professional judgement to determine whether or not to be involved in a project should it become subject to an MZO. Members are also encouraged to consider addressing the following issues in their contracts:

- Identification of who (e.g. the client) would be responsible for paying for any unanticipated additional effort needed in order to comply with or implement an MZO while maintaining minimum safety requirements and/or complying with applicable law; and
- Indemnification of the member by the client for anything that results from circumventing the usual processes under the authority of the MZO, or obtaining a waiver of liability from the client.

Above all else, members should be aware that there is nothing that can prevent someone from naming them or their sub-consultants in a lawsuit.

### Procedures

If members are working on projects that are subject to MZOs, the following should be considered:

- The steps that can be taken to address and mitigate issues that otherwise would have been identified through various planning, zoning, and environmental consultations, reviews, or approval processes;
- The knowledge, judgement, and expertise of an architect always applies in the same manner regardless of whether an MZO has overridden a municipality’s own zoning by-laws or other legislation;

- Where a member is aware of an issue, such as a potential for flooding or soils contamination, they should make their client aware in writing of such issues or concerns, and the possible impact they could have on the project as understood by the member. It may be possible for a member to continue work on a project where an issue is identified so long as they have made their client aware; however, there are instances, such as building a hospital on a floodplain, that may constitute professional misconduct even where the client has been made aware of the member's concerns.
- Seek legal advice from a lawyer with experience dealing with MZOs.

## References

Practice Tip PT.02 Legislative Overview – What Every Architectural Practice Needs to Know About Government Legislation

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