

TECHNICAL ADVISORY T1-16

**CODE and SECTION: IBC 2021- SECTION 107
IRC 2021- Section R106**

COMMON NAME: Construction Documents

Date: **September 21, 2022**

Name of Requestor: **Mr. Ed Meese**

Title and edition of the model code and code section(s) to be considered for the Technical Advisory. **2022 IBC and 2022 IRC**

Question One of One: In Montana are all construction documents required to be prepared by a registered design professional?

Answer (Question One of One): No, under both the 2021 International Building Code (IBC) and the 2021 International Residential Code (IRC) "construction documents shall be prepared by a registered design professional where the STATUTES of the jurisdiction in which the project is to be constructed." (IBC 2021 Sec. 107, IRC 2021 Sec. R106) Specifically, the Statute of Montana (MCA 18-2-122) is listed below:

Plans to bear seal. This state and its political subdivisions such as counties, cities, towns, townships, boroughs, or other political entities or legally constituted boards, commissions, or authorities or officials or employees thereof may not accept plans and specifications for public buildings, water systems and storage facilities, sewerage systems, wastewater disposal projects, swimming pools, recreational facilities, and similar type projects which may have a direct bearing on the public health and safety for approval unless they bear the seal of the professional engineer for engineering projects or the professional land surveyor for land surveying projects or licensed architect for architectural projects, as provided for the practice of the respective professions by Title 37.

MCA 18-2-101 defines a public building as:

Definitions of building, costs, and construction. In part 1 of this chapter, with the exception of **18-2-104, 18-2-107, 18-2-113, 18-2-114, 18-2-122, and 18-2-123**, the following definitions apply:

(1) (a) "Building" includes a building, facility, or structure:

- (i) constructed or purchased wholly or in part with state money;
- (ii) at a state institution;
- (iii) owned or to be owned by a state agency, including the department of transportation; or
- (iv) constructed for the use or benefit of the state with federal or private money as provided in **18-2-102(2)(e)**.

(b) "Building" does not include a building, facility, or structure:

- (i) owned or to be owned by a county, city, town, school district, or special improvement district;
- (ii) used as a component part of an environmental remediation or abandoned mine land reclamation project, a highway, or a water conservation project, unless the building will require a continuing state general fund financial obligation after the environmental remediation or abandoned mine land reclamation project is completed; or
- (iii) leased or to be leased by a state agency.

Administrative Rules of Montana that are applicable to both the Department's and Local Government building programs further outlines the requirements by clarifying the definition of *Public Building* for the determination of the requirement of construction documents to be prepared by a design professional as written below:

24.301.146 MODIFICATIONS TO THE INTERNATIONAL BUILDING CODE APPLICABLE TO BOTH THE DEPARTMENT'S AND LOCAL GOVERNMENT CODE ENFORCEMENT PROGRAMS

(40) This section only applies to buildings that fall under the additional provisions of Title 18, MCA. A building must meet the requirements of Title 18, MCA, in addition to the requirements of Title 50, MCA, if it is owned by the state or one of its political subdivisions. The definition of public building in [50-60-101](#), MCA, does not apply for purposes of this section only, but does apply for purposes of every other section of this rule.

(a) The requirement of Title 18, MCA, is as follows: Construction documents for public buildings, owned by the state and its political subdivisions as outlined by [18-2-122](#), MCA, shall bear the seal of a design professional.

(i) The building official may waive the requirements for a design professional seal for minor projects such as storage sheds and minor renovations, which do not have a direct bearing on the public health and safety.

(ii) The requirement for the seal of a design professional may be waived for projects for which documentation has been submitted, including but not limited to, a letter from the attorney for the local jurisdiction where the project is located, which supports a conclusion that the scope of the project does not have the potential to have a direct bearing on public health and safety.

Only buildings owned, leased, or built with state funds are required to bear the seal of a design professional in the state of Montana, but the IBC 2021 Sec. 107 and IRC 2021 Sec. R106 do give a building official the flexibility to require documents to be prepared by a registered design professional for projects where special conditions exist.

This Code Technical Advisory is produced by the Building and Commercial Measurements Bureau of the Montana Department of Labor and industry by Eric Copeland, Bureau Chief.

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