

MLS Clear Cooperation Policy

Enforcement Begins May 1, 2020

1st Violation:

Warning + \$10 per day until it's corrected

2nd Violation:

Automatic \$50 fine + \$10 per day until it's corrected

3rd Violation:

Automatic \$100 fine + \$10 per day until it's corrected

4th Violation:

No fine. Violation goes straight to the Board of Directors for immediate review of the agent's membership with the Big Sky Country MLS

NARs 8.0 CLEAR COOPERATION POLICY

WHAT IS IT?

"Listings of Real Property which are listed subject to a real estate broker's license and located within the service area of the BSCMLS must be submitted to the MLS for cooperation with other MLS participants by 11pm on the third (3rd) weekday after a listing agreement goes into effect, **OR within one (1) weekday of marketing a property to the public;** certain exclusions may apply to vacant land. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, applications available to the general public."

IN LAYMAN'S TERMS:

If you take a listing that is considered a required property type, on 40.000 acres or less, located within the BSCMLS service area, you have 3 weekdays to enter it. If at any point prior to day 3 you begin to market that property to the public, you now have 1 weekday to enter it. The Clear Cooperation policy does not apply to Vacant Land but is still subject to the policy on "Late Entry of Required Listing".

If your seller wants to withhold their property off the MLS for longer than 3 weekdays, or circumstances arise that are preventing you from entering by the deadline, you need to submit the required paperwork to the BSCMLS office.

When an agent reports a potential violation of the rule, the burden of proof lies on the agent reporting the violation and BSCMLS staff. Clear and convincing evidence must be present to prove beyond a reasonable doubt that the agent is in violation of the rule. The Board of Directors will review the evidence if necessary.

WHAT IF MY SELLER DOESN'T WANT IT ON THE MLS, OR THE PROPERTY ISN'T READY TO BE ON THE MLS?

If the seller refuses to permit the listing to be disseminated by the service, and the property will not be advertised to the public through any of the methods mentioned in the Clear Cooperation policy, you may then take the listing "**Office Exclusive**" and such listings shall be filed with the service, but not disseminated to the participants. Filing of the listing should be accompanied by the "**Listing Exemption Authorization**" form. The form must be signed by the seller indicating that he/she does not want the listing to be immediately disseminated by the service and must be submitted to the BSCMLS by 11pm on the third (3rd) weekday after a listing agreement goes into effect.

EXPLAIN “OFFICE EXCLUSIVE”

“Office Exclusive” listings may only be marketed within the listing brokerage and brokerages within the firm. If at any point during the term of the listing agreement the property is marketed to the public, the listing must be submitted to the MLS by 11pm the following weekday.

In an “Office Exclusive” listing, direct promotion of the listing between the brokers and licensees affiliated with the listing brokerage or brokerages within the firm, and one-to-one promotion between these licensees and their clients, is **NOT** considered public advertising.

WHAT ABOUT LAND LISTINGS?

Land listings that are not going to be submitted to the MLS require a different Listing Exemption Authorization form than properties for sale that include a residence. Again, if the lot size for your land listing is over 40.000 acres, or located outside the service area, it's not required, and not subject to the rules of timely submission or Clear Cooperation.

WHO CREATED THE POLICY?

NAR Emerging Trends & Technology Committee
NAR MLS Issues and Policies Committee
NAR Board of Directors

WHY?

For years The National Association of REALTORS® (NAR) has been tracking the erosion of cooperation among MLS Participants/Subscribers. This erosion seems to be provoked by actions that benefit the REALTOR® over their Seller’s needs and is a blatant violation of the REALTOR’s® ethical and MLS cooperation obligations.

This policy is intended to reintroduce the important role Cooperation plays in ensuring and facilitating the competitive nature of organized real estate. This vital process of competition has been shown to be exceedingly pro-consumer. The policy comes at a time when some have been and are currently innovating the death of the organized real estate marketplace. This policy has been endorsed by NAR legal counsel and passed with overwhelming majorities in the policy making process.

FAIR HOUSING:

By not disseminating listings through the broad exposure of the MLS, some are choosing to exclude in favor of “Exclusive” networks or focused advertising. This leads to a concern that many protected classes of buyers are not allowed equal opportunity at homes that other buyers are afforded.

DOES THIS CHANGE THE MANDATORY SUBMISSION DATE FOR ALL LISTINGS ENTERED ON THE MLS?

NO. All required listings still have 3 weekdays to be entered on the MLS.

UNDERSTANDING REQUIRED LISTING ENTRY

To understand how Clear Cooperation applies to the Big Sky Country MLS, you must first understand the 3 criteria used in determining what is required for listing entry, and when...

PROPERTY TYPE

LOT SIZE

LOCATION

If all 3 criteria are met, you must follow the policy on required listing submission and Clear Cooperation.

PROPERTY TYPES

Here we will refer to all Residential, Multi-Family, and Farm/Ranch properties as "**REQUIRED RESIDENCE**", and all Land properties as "**REQUIRED LAND**"

REQUIRED RESIDENCE

- All required **RESIDENCE** properties on lots up to and including 40.000 acres located within the BSCMLS service area must be entered by 11pm the 3rd weekday after the listing start date, OR by 11pm the 1st weekday after marketing the property to the public (this is the Clear Cooperation Policy).
- If the seller requests that the property not be entered on the MLS, the agent must submit the "**Listing Exemption Authorization for RESIDENCE ("Office Exclusive")**" form by 11pm the third (3rd) weekday after the listing start date. After you submit the form, if you market the property to the public, you are in violation of Clear Cooperation.

REQUIRED LAND

- All required **LAND** properties on lots up to and including 40.000 acres located within the BSCMLS service area must be entered by 11pm the 3rd weekday after the listing start date.
- If the seller requests that the property not be entered on the MLS, the agent must submit the "**Listing Exemption Authorization for VACANT LAND**" form by 11pm the third (3rd) weekday after the listing start date.

REQUIRED PROPERTY TYPES LISTED BY CLASS

RESIDENTIAL	Single Family Condominium Townhouse Manufactured Home De-titled
MULTI-FAMILY	Duplex Triplex Fourplex Home w/Apartment Multiple Dwellings Cabins <i>(5+ Units are not required because they are considered Commercial properties)</i>
FARM & RANCH	Land w/Residence Land Only*
LAND	Land w/Manufactured Home Land w/Structure* Vacant Land/Acreage*
COMMERCIAL	All Commercial properties (for Sale or for Lease) are exempt from required listing entry*

*The Clear Cooperation policy DOES NOT apply to the following:

- **FARM & RANCH:** Land Only
- **LAND:** Land w/Structure, Vacant Land/Acreage
- **COMMERCIAL (For Sale or Lease):** all commercial properties are exempt from required listing entry

Under this rule, the listing agent may publicly market the property without any penalty for non-entry in the MLS, so long as the BSCMLS has received a copy of the **Listing Exemption Authorization for LAND Properties**.

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LOT SIZE

ALL required property types on lots up to and including 40 acres for sale or exchange are required for listing entry if it is located within the Big Sky Country MLS service area...

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LOCATION

The Big Sky Country MLS service area includes the following counties...

Beaverhead
Broadwater
Deer Lodge
Gallatin

Granite
Jefferson
Madison
Meagher

Park
Silver Bow
Sweet Grass

PROPERTY TYPE

LOT SIZE

LOCATION

If all 3 criteria are met, you must follow the policy on required listing submission and Clear Cooperation.

We hope this information helps you understand how the new Clear Cooperation policy works and what is required for listing entry for all property types, regardless if they are going to be submitted to the MLS or not.

Keep in mind that late submission of a required listing is still a violation. If you enter a listing on the MLS, it must be submitted within three (3) weekdays of the listing start date. Anything beyond that is a violation of the Big Sky Country MLS policies regarding timely submission.

