

# MLS of ELKHART COUNTY IDX RULES & REGULATIONS

Revised May 27 2009

**SECTION 18 - IDX DEFINED** – IDX affords, MLS Participants the option of authorizing display of their active listings on other participant’s Internet websites.

**18.1 Authorization:** Participants’ consent for display of their active listings by other Participants pursuant to these Rules and Regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket or a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of Participant’s listing, that Participant may not download or frame the aggregated MLS data of other Participants. Even where Participants have given blanket authority for other Participants to display their listings on IDX sites, such consent may be withdrawn on a listing-by-listing basis as instructed by the seller. (Amended 5/09)

**18.2 Participation:** Participation in IDX is available to all MLS Participants who are actively engaged in providing real estate brokerage services to buyers or sellers and who consent to display of their listings by other Participants. This requirement can be met by maintaining an office or Internet presence from which Participants are available to represent real estate sellers or buyers (or both).

**18.2.1** - Participants must notify the MLS of their intention to establish an IDX site and must make their site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies.

**18.2.2** – Participants must protect IDX information from misappropriation by employing reasonable efforts to monitor and prevent “scraping” or other unauthorized accessing, reproduction, or use of the MLS database. Reasonable efforts shall include but are limited to: (Amended 5/09)

1. Monitoring the web site for signs that a third party is “scraping” data and
2. Prominently posting notice that any use of search facilities of data on the site, other than by a consumer looking to purchase real estate, is prohibited. If a Subscriber suspects “scraping” of the data has occurred, the suspicion and any evidence must be reported to the MLS immediately for investigation and action.

**18.2.3** - Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible web sites or VOWs) shall not be accessible via IDX sites. Notwithstanding this prohibition, listing brokers may display on their IDX sites or their other web site(s) the listing or property address of consenting sellers. (Amended 11/06)

**18.2.4** – Participants may select the listings they choose to display on their IDX sites based only on objective criteria including, but not limited to, factors such as geography or location (“uptown,” “downtown,” etc.), list price, type of property (e.g., condominiums, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell, or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each Participant. (Amended 5/09)

**18.2.5** – Participants must refresh all MLS downloads and refresh all MLS data at least once every seven (7) days. (Amended 5/09)

**18.2.6** – Except as provided in these rules, an IDX site or a Participant or user operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity. (Amended 5/09)

**18.2.7** – When displaying listing content, a Participant’s or user’s IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. (Amended 5/09)

**Section 18.3 - General Display – Display of listing information pursuant to IDX is subject to the following rules:**

**18.3.1** – Listings displayed pursuant to IDX shall contain only on those fields of data designed by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g. cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed on IDX sites. (Amended 5/09)

**18.3.2** - Participants shall not modify or manipulate information relating to other participants' listings. (This is not a limitation on site design but refers to changes to actual listing data.) MLS data may be augmented with additional data not otherwise prohibited from display so long as the source of the additional data is clearly identified. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized data fields. (Amended 5 /09)

**18.3.3** - All listings displayed pursuant to IDX shall identify the listing firm in a readily visible color and typeface not smaller than the median used in the display of listing data. (Amended d5/09)

**18.3.4** – Non-principal brokers and sales licensees affiliated with IDX participants may display information available through IDX on their own Web sites subject to their participant’s consent and control and the requirements of state law and/or regulation. The MLS will not be responsible for monitoring agent web sites but will pursue complaints of agent non-compliance filed by Participants. MLS maintains the right to discontinue the data feed to the company site within five days if agent web site is found to be in violation of IDX rules and regulations. (Amended 5/09)

**18.3.5** - All listings displayed pursuant to IDX shall show the MLS as the source of the information. The following disclosure verbiage or its equivalent will satisfy this requirement: (Amended 5/09)

Property information provided by the MLS of Elkhart County, Inc.

**18.3.6** - Participants (and their affiliated licensees, if applicable) shall indicate on their Web sites that IDX information is provided exclusively for consumers’ personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability. Violators may be subject to fines not to exceed \$250,000.00. (Amended 5/09)

**18.3.7** - Listings obtained through IDX must be displayed separately from listings obtained from other non-MLS listing sources, including information provided by other MLSs. Listings obtained from other

sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained. (Amended 5/09)

**18.3.8** - Display of off market including pending and sold listings is prohibited. (Amended 5/09)

**18.3.9** - Display of seller's and/or occupant's name(s), phone number(s), and email address(es) is prohibited. (Amended 5/09)

**18.3.10** - A Participant must make changes to the IDX site necessary to cure a violation of the MLS's Rules and Regulations within five business (5) days of notice from the MLS of the violation. MLS reserves the right to discontinue the data feed without further notice if the subscriber does not comply with this requirement. ECMLS also reserves the right to issue fines.

**18.3.11** - Any subscriber using a third party to develop and/or design its web site shall have a written agreement with that third party in the form prescribed by the MLS. ECMLS requires that third parties gaining access to the subscriber's Database sign the standard contract as approved by the MLS. Providing an MLS password to an unauthorized recipient is a serious violation of the MLS Rules and Regulations punishable by a fine as established by the MLS for each such violation.

**18.4 – Fees** - Service fees and charges for participation in IDX shall be as established annually by the Board of Directors.

## **A LIST OF ALL MANDATORY DISCLOSURES FOUND THROUGH OUT THESE RULES**

### **Prevent Scraping**

Participants must protect IDX information from misappropriation by employing reasonable efforts to monitor and prevent "scraping" or other unauthorized accessing, reproduction, or use of the MLS database. Reasonable efforts shall include but are limited to: (Amended 5/09)

3. Monitoring the web site for signs that a third party is "scraping" data and
4. Prominently posting notice that any use of search facilities of data on the site, other than by a consumer looking to purchase real estate, is prohibited. If a Participant or user suspects "scraping" of the data has occurred, the suspicion and any evidence must be reported to the MLS immediately for investigation and action.

**Identify Brokerage Firm** – When displaying listing content, a Participant's or user's IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. (Amended 5/09)

### **Use of Information Disclaimer**

The following disclaimer will be displayed on all websites that offer MLS Listing Data to the public:

"The use of information derived from this site is for personal use only unless you are a paying member of the MLS of Elkhart County, Inc. Any business use of this data not properly authorized can subject violators to fines not to exceed \$250,000.00." The disclaimer will apply to existing users and new users. (Adopted 1/09)

**Update Frequency**

IDX Data must be refreshed at least every 7 days.

**Explanation of Data Source:**

The ECMLS approved icon and an explanation of the data source must appear on the first output page of any listing data result. The following disclosure verbiage or its equivalent will satisfy this requirement:

“The properties on this web site come in part from the IDX program of the MLS of Elkhart County, Inc.”

**Personal Use Only Disclaimer**

Participants (and their affiliated licensees, if applicable) shall indicate on their Web sites that IDX information is provided exclusively for consumers’ personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability. Violators may be subject to fines not to exceed \$250,000.00. (Amended 5/09)