



FREQUENTLY ASKED QUESTIONS

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On May 19th, in cooperation with Washington REALTORS®, Governor Inslee announced modifications to the Order for real estate activities in counties that have been approved for Phase 2 re-opening, provided specific protocols are followed. The modifications for Phase 2 include:

- Real estate firms may open their offices in a limited fashion;
- Commercial brokers can engage in the same in-person services as residential brokers;
- Three persons (as opposed to two persons) are allowed on site for permitted in-person real estate activities for both residential and commercial brokerage (for both improved and unimproved property); and
- Sign installers may install real estate signs.

For both Phase 1 and Phase 2 in-person real estate activities, real estate brokers and industry partners (e.g. appraisers, inspectors, photographers, stagers, etc.) must wear cloth face coverings and should encourage clients and customers to do the same. No real estate open houses or similar invitations to view a property without an appointment are permitted in Phase 1 or Phase 2.

Brokers must adhere to the “phase” protocols for the county where the property is located, regardless of the location of the broker’s office or home. Brokers conducting real estate activities in a Phase 1 county, must continue to abide by the Phase 1 protocols, which include only allowing two persons in a property, including the broker, at one time.

Please carefully review these updated FAQs, published by Washington REALTORS® and Northwest MLS, for all the requirements associated with in-person real estate activities.

What is the Stay Home, Stay Healthy Order? (Revised May 19, 2020)

To help prevent the spread of COVID-19 (Coronavirus), effective midnight on Wednesday, March 25th, Governor Inslee issued a statewide “Stay Home, Stay Healthy” order (the “Order”). The Order required the closure of all “non-essential critical infrastructure businesses.” Workers considered non-essential, who did not have in-person contact with others, could continue to work remotely from home only.

On March 28th, in cooperation with Washington Realtors, Governor Inslee agreed to certain modifications to the Order for the real estate industry. Due to the fact that the vast majority of real estate brokers abided by the Order, several of the original restrictions on in-person activities were revised – provided that strict protocols for social distancing were implemented.

On May 1st, Governor Inslee adjusted and extended the Order, introducing a four-phased approach to re-open business in Washington. The business of “real estate” is permitted in Phase 2 under protocols applicable to all businesses and protocols unique to the real estate industry. Counties will be admitted into Phase 2 by the Governor, based on epidemiological and other indications specific to each county. Some counties will be in Phase 2, while other counties will continue in Phase 1.

On May 19th, in cooperation with Washington Realtors, the Governor announced additional modifications to the Order for real estate activities, provided specific protocols are followed, in counties that have been approved for Phase 2 re-opening.



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What are the additional real estate activities allowed in Phase 2?

(New May 19, 2020)

The modifications for Phase 2, assuming the required protocols are followed, include:

- Real estate firms may open their offices in a limited fashion;
- Commercial brokers can engage in the same in-person activities as residential brokers;
- Three persons (as opposed to two persons) are allowed on site for permitted in-person real estate activities for both residential and commercial brokerage (for both improved and unimproved property); and
- Sign installers may install real estate signs.

For both Phase 1 and Phase 2 in-person activities, real estate brokers and industry partners (e.g. appraisers, inspectors, photographers, stagers, etc.) must wear cloth face coverings and should encourage clients and customers to do the same.

Some counties have already been approved for Phase 2, while other counties have been approved to apply for a variance to move to Phase 2. The list of Phase 1 and Phase 2 counties will change over the next few weeks. A map showing the status of each county is available here: <https://coronavirus.wa.gov/what-you-need-know/covid-19-county-variance-application-process>.

REMINDER: Phase 1 protocols prohibit more than two people, including the broker, at the property at one time.

What are the required protocols for any permitted in-person activity during Phase 2?

(New May 19, 2020)

Brokers must adhere to the “phase” protocols for the county where the property is located, regardless of the location of the broker’s office or home.

The protocols that must be followed for permitted in-person activities, during Phase 2, include:

- In-person activities must be by appointment only;
- Real estate brokers and industry partners (e.g. appraisers, inspectors, photographers, stagers, etc.) must wear cloth face coverings and should encourage clients and customers to do the same.
- No more than three people, including the broker, may be at the property at any one time;
- Those three persons must strictly follow social distancing guidelines by remaining at least six feet apart at all times; and
- No real estate open houses or similar invitations to view a property without an appointment, shall be permitted.

A broker may not leave a third party unattended in a property. Accordingly, brokers may only bring two other persons at a time into the property.

REMINDER: Phase 1 protocols prohibit more than two people, including the broker, at the property at one time.



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What in-person real estate brokerage services are permissible in Phase 2?

(New May 19, 2020)

Provided the above protocols are followed for any permitted in-person activity, residential and commercial real estate brokers may:

- Conduct listing presentations, take photos, and create virtual tours for new listings;
- Facilitate signing of contract documents;
- Preview and show listings by appointment only; and
- Facilitate inspections, appraisals, buyer “walk-throughs,” and other activities typically required to complete a real estate sale or lease.

Real estate brokers may not:

- Conduct any business outside of their home (with the exception of the above noted activities); or
- Hold an open house, or facilitate similar invitations to view a property without an appointment.

Note that any broker who violates the Governor’s order not only puts himself/herself and his/her family at great personal risk, but also puts the broker’s real estate firm and his/her clients at risk. Any violation of the order is a gross misdemeanor and a violation of the real estate license law (RCW 18.85).

REMINDER: Phase 1 protocols prohibit in-person commercial brokerage services and in-person activities related to unimproved real property.

Can real estate firms re-open their offices in Phase 2 of the Order?

(New May 19, 2020)

Yes. Real estate firms can re-open offices located in Phase 2 counties in a limited fashion, so long as the firm adheres to the many required protocols. Many real estate firms may choose to continue to operate remotely and wait to re-open their offices until a later date.

If a real estate firm chooses to re-open, designated brokers should carefully review the requirements to ensure compliance with all protocols. No office facilities may open for operations until they can meet and maintain all the requirements, including providing materials, schedules, and equipment required to comply. Some of the protocols are:

- Maintain minimum six-foot separation between all persons in all interactions at all times.
- Arrange furniture to encourage social distancing.
- Require clients/customers to make appointments for in-person services.
- Provide personal protective equipment (PPE) such as gloves and face masks to employees and independent contractors. Cloth facial coverings must be worn by every employee and independent contractor not working alone in the office.
- Ensure frequent and adequate hand washing with adequate maintenance of supplies. Use disposable gloves where applicable to prevent transmission on office supplies or other equipment that is shared.



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- Establish a janitorial schedule that includes frequent cleaning and sanitizing with a particular emphasis on commonly touched surfaces.
- Screen individuals for signs/symptoms of COVID-19 before starting work. Make sure individuals who are sick stay home or immediately go home if they feel or appear sick. Cordon off any areas where an individual with probable or confirmed COVID-19 illness worked, touched surfaces, etc. until the area and equipment is cleaned and sanitized. Follow the cleaning guidelines set by the CDC to deep clean and sanitize.
- All on-site employees and independent contractors must be trained on the worksite's policies, these requirements and all relevant sanitization and social distancing protocols. They must also be trained about COVID-19 and how to prevent its transmission.
- A site-specific COVID-19 monitor shall be designated at each location to monitor the health of individuals and enforce the COVID-19 job site safety plan.
- Develop and post at each location a comprehensive COVID-19 exposure control, mitigation and recovery plan. A copy of the plan must be available at the location and available for inspection by state and local authorities.
- COVID-19 safety information and requirements, such as CDC, DOH, OSHA posters and the employer-owner written policies for COVID-19, shall be visibly posted at each location.
- Authorized access to the business should primarily be through the front door.
- Face shields or sneeze guards should be placed throughout the worksite at all places of potential interaction between service providers and clients
- Follow safety requirements outlined in the Professional Services Phase 2 guidance for re-opening for office space working environments.

REMINDER: Phase 1 protocols limit office activities to “Basic Minimum Operations” only, including processing payroll and benefits, preserving equipment, ensuring security, and supporting brokers’ ability to work from home.

Can lenders, title, and escrow continue to operate during the Order? (March 26, 2020)

Yes. The “Financial Services Sector” has been deemed essential. This includes workers who are needed to process and maintain systems for processing financing transactions and services and insurance companies including mortgage lenders, escrow and title insurers. Because the Financial Services Sector is considered essential, real estate transactions that are under contract may be able to proceed to closing. Of course, there could be delays, which is why the parties should consider using the Force Majeure and Closing Addendum (Form 22FM).

Can brokers physically preview or show properties in Phase 2 of the Order? (Revised May 19, 2020)

Yes. In-person previews or showings of properties are permitted if the required protocols are followed. Previews or showings must be by appointment, a total of no more than three people, including the broker, are permitted at the property at any one time, and those three people adhere to strict social distancing guidelines. Real estate brokers must wear cloth face coverings and should



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encourage clients and customers to do the same. Any previews or showings should be conducted as expeditiously as possible.

Real estate brokers may not leave a third party unattended in a property. Accordingly, brokers may only bring two people at a time into the property. Sellers should vacate the property prior to any preview or showing appointment. In addition, listing brokers should stagger any preview or showing appointments to avoid any overlap.

In lieu of physically showing the property, brokers and buyers can utilize virtual tours and videos that are included with the listing. Brokers should also consider virtual showings to further practice social distancing.

REMINDER: Phase 1 protocols prohibit more than two people, including the broker, at the property at one time.

Do brokers currently need to leave their business card when previewing or showing properties to comply with NWMLS Rule 180(a)? *(April 1, 2020)*

Not at this time. To eliminate surface touches and the potential spread of germs, brokers do not currently need to leave a business card in listings when previewing or showing properties. Brokers must register with the keybox, which records the broker's entry into the property. Listing brokers can share keybox activity with sellers as frequently as practical and should make sure to "assign" the keybox to the listing. In addition, all previews and showings must be conducted by

appointment, which provides sellers with prior notice of all entries into the property.

Can inspectors conduct inspections during Phase 2 of the Order? *(Revised May 19, 2020)*

Yes. If an inspection is required in a pending transaction, an inspection may be conducted, provided that it is by appointment, a total of no more than three people, including the broker, are at the property at any one time, and those three people adhere to strict social distancing guidelines. Real estate brokers and inspectors must wear cloth face coverings and should encourage clients and customers to do the same. The inspection should be conducted as expeditiously as possible.

A pre-inspection of a property prior to mutual acceptance of a purchase and sale agreement is permitted, provided that it is by appointment, a total of no more than three people, including the broker, are at the property at any one time, and those three people adhere to strict social distancing guidelines. Real estate brokers and inspectors must wear cloth face coverings and should encourage clients and customers to do the same. The pre-inspection should be conducted as expeditiously as possible.

Because a broker may not leave a third party unattended in a property, the three people at the property for the inspection must include the broker. Sellers should vacate the property prior to the inspection.

REMINDER: Phase 1 protocols prohibit more than two people, including the broker, at the property at one time.



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Can appraisers conduct in-person appraisals during Phase 2 of the Order? *(Revised May 19, 2020)*

Yes. If an appraisal is required in a pending transaction, an appraisal may be conducted, provided that it is by appointment, a total of no more than three people, including the broker, are at the property at any one time, and those three people adhere to strict social distancing guidelines. Real estate brokers and appraisers must wear cloth face coverings and should encourage clients and customers to do the same. The appraisal should be conducted as expeditiously as possible. Sellers should vacate the property prior to the appraisal.

REMINDER: Phase 1 protocols prohibit more than two people, including the broker, at the property at one time.

Can buyer's brokers conduct "buyer walk-throughs" prior to closing during Phase 2 of the Order? *(Revised May 19, 2020)*

Yes. If a walk-through is required in a pending transaction, a walk-through may be conducted, provided that it is by appointment, a total of no more than three people, including the broker, are at the property at any one time, and those three people adhere to strict social distancing guidelines. Real estate brokers must wear cloth face coverings and should encourage clients and customers to do the same. The walk-through should be conducted as expeditiously as possible. Sellers should vacate the property prior to the walk-through.

REMINDER: Phase 1 protocols prohibit more than two people, including the broker, at the property at one time.

Can brokers retrieve keys and provide to a buyer after a closed sale during Phase 2 of the Order? *(Revised May 19, 2020)*

Yes. If keys to the property are not otherwise available to a buyer at closing, a broker in the transaction may make arrangements to retrieve and deliver the keys to the buyer, provided that it is done so by appointment, a total of no more than three people, including the broker, are at the property or at the location of the key delivery, and those people adhere to strict social distancing guidelines. Real estate brokers must wear cloth face coverings and should encourage clients and customers to do the same.

REMINDER: Phase 1 protocols prohibit more than two people, including the broker, at the property at one time.

Can real estate brokers input new listings in the MLS system during Phase 2 of the Order? *(Revised May 19, 2020)*

Yes. Real estate brokers are permitted to input new listings into the MLS system – from their home. Real estate brokers may conduct listing presentations, take photos of the property, and create virtual tours for new listings, provided that those activities are done so by appointment, no more than three people, including the broker, are at the property at any one time, and those people adhere to strict social distancing guidelines. Real estate brokers must wear cloth face coverings and should encourage clients and customers to do the same. In addition, a seller may take pictures of his or her own property and send those photos to the listing broker.



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REMINDER: Phase 1 protocols prohibit more than two people, including the broker, at the property at one time.

Can professional photographers take photos and create virtual tours during Phase 2 of the Order? *(Revised May 19, 2020)*

Yes. Professional photography for listings is permitted. Like all other in-person activities, photos and virtual tours must be by appointment, no more than three people, including the broker, are at property at any one time, and those people must adhere to strict social distancing guidelines. Real estate brokers and photographers must wear cloth face coverings and should encourage clients and customers to do the same. Sellers should vacate the property prior to any photography activities.

Note that creating virtual tours is an effective way to allow buyers to view the property without the need for an in-person showing.

REMINDER: Phase 1 protocols prohibit more than two people, including the broker, at the property at one time.

Can Sellers take their listing temporarily off the market during the Order? *(Revised March 28, 2020)*

Yes. A seller can choose to change the status of their listing temporarily off the market. Listings in the "TOMK" status will not be displayed on member's public websites.

Can stagers stage homes and remove furniture from a listing during Phase 2 of the Order? *(Revised May 19, 2020)*

Yes. Staging a home and removing staging items is permitted. Like all other in-person activities, staging activities must be by appointment, no more than three people, including the broker, are at the property at any one time, and those people must adhere to strict social distancing guidelines. Real estate brokers and stagers must wear cloth face coverings and should encourage clients and customers to do the same. Sellers should vacate the property prior to any staging activities.

REMINDER: Phase 1 protocols prohibit more than two people, including the broker, at the property at one time.

Can moving companies move buyers into a property and move sellers out of a property? *(Revised May 19, 2020)*

Yes. Moving companies are permitted to operate so long as all moving work is conducted with the fewest employees possible, following social distancing and sanitation measures.

Can brokers hire signs installers during Phase 2 of the Order? *(Revised May 19, 2020)*

Yes. Brokers may hire sign installers, provided that no more than three people are present at the sign installation and those people adhere



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to strict social distancing guidelines. Real estate brokers and sign installers must wear cloth face coverings and should encourage clients and customers to do the same.

REMINDER: Phase 1 protocols do not allow for third-party sign installers. Brokers listing property in Phase 1 counties should install their own, temporary signs, with no more than two people at the property.

Can contractors make repairs associated with an inspection response during the Order? (Revised May 19, 2020)

Construction practices are permitted and regulated under a separate order from the Governor. Brokers should advise the client to consult with any contractor hired to complete repairs to ensure that the contractor is in compliance with all protocols required of the contractor.

Are property management services included in Phase 2 of the Order? (Revised May 19, 2020)

Yes. Residential and commercial property management is permitted, so long as all protocols required for real estate activities are followed.

Note that throughout these FAQs, reference to “buyer” includes “tenant” and reference to “seller” includes “landlord”.

REMINDER: Phase 1 protocols do not allow commercial property management activities.

Is NWMLS going to stop days on market and cumulative days on market from accumulating? (March 26, 2020)

No. NWMLS conducted significant research and analysis, considered the MLS system's technical limitations and possibilities, discussed several policy concerns, and analyzed a variety of options and proposals. There are many technical and philosophical challenges with temporarily changing code, database structures, and statistical information. In the end, the Board of Directors determined that the best solution was to leave the system as it exists today.

All sellers who leave their listing Active during the stay will be in the same position as one another and days on market will continue to accrue. Buyers are obviously aware of the Stay Home, Stay Healthy Order and the government mandate to stay at home. Sellers have the option to take their listing temporarily off the market during the stay, and if they do so, days on market will not accrue, until the listing is re-activated.

What if my buyer or seller has questions about their rights and obligations under their purchase and sale agreement or lease? (March 26, 2020)

As always, brokers have a duty to refer their clients to experts regarding matters in which the broker lacks expertise. Particularly in matters affected by COVID-19 and the Stay Home, Stay Healthy Order, it is unlikely that brokers will have expertise and should advise their clients to seek the advice of an attorney.



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How do I to stay up-to-date with matters affecting real estate brokerage and avoid being misled by false rumors? *(March 26, 2020)*

There are false rumors and misinformation being circulated. Many brokers have acted in reliance on bad information to their embarrassment and detriment.

Washington Realtors and NWMLS communicate daily, and often more frequently to keep members informed of any developments affecting the industry. Both Washington REALTORS® website and NWMLS's websites will continue to offer the latest and most accurate information possible.



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