

**RCW 64.70.040 Covenants—Contents—Agency discretion—Local land use consideration.** (1) An environmental covenant must:

- (a) State that the instrument is an environmental covenant executed pursuant to this chapter;
- (b) Contain a legally sufficient description of the real property subject to the covenant;
- (c) Describe with specificity the activity or use limitations on the real property;
- (d) Identify every holder;
- (e) Be signed by the agency, every holder, and unless waived by the agency every owner of the fee simple of the real property subject to the covenant; and
- (f) Identify the name and location of any administrative record for the environmental response project reflected in the environmental covenant.

(2) In addition to the information required by subsection (1) of this section, an environmental covenant may contain other information, restrictions, and requirements agreed to by the persons who signed it, including any:

- (a) Requirements for notice following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the property subject to the covenant;
- (b) Requirements for periodic reporting describing compliance with the covenant;
- (c) Rights of access to the property granted in connection with implementation or enforcement of the covenant;
- (d) Narrative descriptions of the contamination and remedy, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination;
- (e) Limitations on amendment or termination of the covenant in addition to those contained in RCW 64.70.090 and 64.70.100;
- (f) Rights of the holder in addition to its right to enforce the covenant pursuant to RCW 64.70.110;
- (g) Other information, restrictions, or requirements required by the agency, including the department of ecology under the authority of chapter 70A.305 RCW.

(3) In addition to other conditions for its approval of an environmental covenant, the agency may require those persons specified by the agency who have interests in the real property to sign the covenant.

(4) The agency may also require notice and opportunity to comment upon an environmental covenant as part of public participation efforts related to the environmental response project.

(5) The agency shall consult with local land use planning authorities in the development of the land use or activity restrictions in the environmental covenant. The agency shall consider potential redevelopment and revitalization opportunities and obtain information regarding present and proposed land and resource uses, and consider comprehensive land use plan and zoning provisions applicable to the real property to be subject to the environmental covenant.  
[2020 c 20 s 1065; 2007 c 104 s 5.]