

Effective 5/10/2016

11-42-202 Requirements applicable to a notice of a proposed assessment area designation.

- (1) Each notice required under Subsection 11-42-201(2)(a) shall:
- (a) state that the local entity proposes to:
 - (i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;
 - (ii) provide an improvement to property within the proposed assessment area; and
 - (iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;
 - (b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;
 - (c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:
 - (i) the nature of the improvements; and
 - (ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;
 - (d) state the estimated cost of the improvements as determined by a project engineer;
 - (e) for the version of notice mailed in accordance with Subsection (4)(b), state the estimated total assessment specific to the benefitted property for which the notice is mailed;
 - (f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;
 - (g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);
 - (h) state the assessment method by which the governing body proposes to levy the assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:
 - (i) by directly billing a property owner; or
 - (ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;
 - (i) state:
 - (i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;
 - (ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and
 - (iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;
 - (j) state the date, time, and place of the public hearing required in Section 11-42-204;

- (k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:
 - (i) how the reserve fund will be funded and replenished; and
 - (ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;
 - (l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:
 - (i) estimates the total assessment to be levied against the particular parcel of property;
 - (ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;
 - (iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and
 - (iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(c):
 - (A) appoints a trustee that satisfies the requirements described in Section 57-1-21;
 - (B) gives the trustee the power of sale; and
 - (C) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;
 - (m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:
 - (i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;
 - (ii) a description of how the estimated assessment will be determined;
 - (iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:
 - (A) in accordance with Section 11-42-406, current economic promotion activities; or
 - (B) current operation and maintenance costs;
 - (iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and
 - (v) a statement of the maximum number of years over which the assessment will be levied for:
 - (A) operation and maintenance costs; or
 - (B) economic promotion activities;
 - (n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;
 - (o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and
 - (p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.
- (2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.
- (3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:
- (a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

- (b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and
 - (c) provisions for any improvements described in Subsection 11-42-102(26)(a)(ii).
- (4) Each notice required under Subsection 11-42-201(2)(a) shall:
- (a)
 - (i)
 - (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or
 - (B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and
 - (ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(i); and
 - (b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.
- (5)
- (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4)(a) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.
 - (b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.
- (6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).
- (7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:
- (a) the property owner gives written consent;
 - (b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or
 - (c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Amended by Chapter 85, 2016 General Session
Amended by Chapter 371, 2016 General Session