

FEBRUARY 2024

PUBLIC ACT 23-207

MUNICIPAL TAX ABATEMENTS FOR RECREATIONAL TRAILS



CRCOG

A new tool is available to encourage long-term preservation of Connecticut's robust trail network. The Connecticut General Assembly passed [Public Act 23-207](#) which, in part, allows municipalities to abate real estate taxes for certain types of recreational trails starting October 1, 2023. The bill received support from a number of conservation organizations, many of whom act as stewards for the blazed trail systems found throughout the state.

If municipalities opt to participate in this program, Public Act 23-207 provides two options:

Option 1 | Adopt an ordinance that allows for tax abatements for corridors of land with recreational trails that are protected in perpetuity through a permanent conservation restriction. **This report focuses on this option.**

Option 2 | Consider trail corridors as "open space" pursuant to the PA 63-490 open space provisions (commonly referred to as "PA 490"), thereby allowing land, or portions of land, with such trail corridors to qualify for a reduced assessment. Municipalities that previously adopted PA 490 for open space may need to update the language in their Plan of Conservation and Development to allow for this new provision and seek re-approval by the legislative body. While it is useful to have more than one tool to protect public access to recreation trails, **this approach (PA 490) does not permanently protect the trail**—the reduced assessment expires if ownership of the land changes.

For additional resources on preserving open space and trails, see:

- [Connecticut Forest & Park Association](#)
- [Connecticut Land Conservation Council](#)
- [Connecticut Farm Bureau PA 490 resources](#)
- [Connecticut Department of Agriculture, Public Act 490 - The Basics](#)

This document reflects the interpretation of the legislation by CRCOG staff. Interested communities should consult with their legal counsel. As is often the case with new legislation, once municipalities explore adoption of an ordinance, clarity on some aspects may be needed.

BACKGROUND

Purpose

Public Act 23-207 recognizes the value of Connecticut's public recreation trails and can help ensure their permanent protection. The Public Act targets protection of public trails in "greenways", as explained in this document.

Many of the public trails in Connecticut are located on private property and not all are protected in perpetuity; as a result, a land owner could theoretically eliminate public access at any time. This Public Act helps to address this by allowing tax reductions to owners who keep trails on their land available to the public. Landowners that either have already placed a conservation restriction on their land or are willing to add such a restriction can apply for an abatement, but only if the municipality adopts a program pursuant to this Public Act.

Summary of Process

- ◆ STEP 1: Municipality adopts ordinance enabling tax abatements for recreational trail corridors.
- ◆ STEP 2: Landowner prepares a certified land survey of the trail corridor and files a permanent conservation restriction in the land records (if conservation restriction not already recorded in land records).
- ◆ STEP 3: Landowner applies to assessor for the abatement.
- ◆ STEP 4: Within 30 days of receipt of the application, the assessor submits to the Town Council/Board of Selectmen the application with a recommendation to approve or deny the application.
- ◆ STEP 5: Town Council / Board of Selectmen votes on application.

CONSIDERATIONS

The Public Act provides a very specific application process, making the creation and adoption of an ordinance fairly straightforward. However, some provisions in the new legislation may need clarity. But this should not prevent interested municipalities from enacting an ordinance. With guidance from local legal counsel, here are some considerations and questions for interested municipalities to explore.

Eligibility

The Public Act states that an eligible corridor “**meets the criteria** for designation” as a greenway rather than stating that it “**has been** designated” [emphasis added].

The referenced criteria are those that have been established by the Connecticut Greenways Council. Some of the criteria (see text box) appear to be procedural and some are not applicable to this Public Act (e.g., municipal projects).

Based on discussions with proponents of the Public Act, it is CRCOG staff’s understanding that the intent was that eligible trail corridors must be officially designated as a Greenway, however, the adopted language appears broader. CRCOG believes a wider network of trails could be eligible, provided they meet at least one of the criteria for designation.

If the intent was to limit the program to designated greenways (present or future) recognized by the Council, the language should be updated.

To see officially-designated Greenways, refer to the Greenways Council [map](#) and [listing](#).

Connecticut Greenways Council Criteria

(as of 10/2023):

“In order to be considered for official greenway designation, a project must meet at least one of the following criteria:

- 1. The corridor connects existing open space, trail segments, historical/cultural assets; provides alternative transportation opportunity; may be of varying lengths, but connects neighborhoods to schools, town centers, parks and recreation areas, transportation centers, or open spaces.*
- 2. If the greenway is a municipal project, it must be included in local plan of Conservation and Development (or in the next revision thereof), and must be endorsed by the local government through a municipal resolution or compact;*
- 3. If the greenway is a regional project, it must be included in plans of relevant Regional Planning Agency, or Council of Governments, with endorsements by the affected municipalities; or, an inter-municipal compact may be developed between towns;*
- 4. If the greenway is a non-governmental project, it must be sponsored by organization with proven record of land use protection/recreational use, or with proven resources needed for project success; licensing, easements, or other agreements for use of state, municipal, or private land must be on file; it must be endorsed by the local government through a municipal resolution or compact;*
- 5. The segment submitted for designation may be a key link in an emerging greenway, either for conservation or recreation purposes;*
- 6. Once designated, such greenway shall be reflected in the State Plan of Conservation and Development as revised by the Office of Policy and Management and in any state-wide greenway plan developed by the Department of Energy and Environmental Protection.*
- 7. Greenway designation may be revised by The Greenways Council should the designated use change.”*

Landowner Commitment

This program requires a firm commitment by the landowner to keep their land accessible. A conservation restriction limits the owner's rights within the trail corridor and requires that the trail be accessible to the public (i.e., the landowner is giving up some land rights in return for an abatement). In addition, the Public Act requires that landowners submit a land survey with an application for an abatement. A survey can be expensive and it is presumed the landowner would be responsible for that cost. In fact, the cost of the survey could be greater than the amount of the abatement. Proponents of the Public Act expect that only those who are most dedicated to the long-term preservation of trail corridors on their land would take part in this program.

Application Requirements

The Public Act lists submittal requirements: a description of the land, a copy of the recorded conservation restriction, the deed, a survey, and any other information that the Assessor may require.

The Public Act states that the survey "shall be made by a licensed surveyor and such certification shall be made in accordance with chapter 390 of the general statutes"; however that chapter applies to architects. It is our assumption that the reference should be to [Chapter 391](#), which applies to engineers and land surveyors. It is also our assumption that the survey must be to A-2 standard and does not have to cover the entire property—just the corridor that contains the trail and is subject to the conservation restriction.

Municipalities should create an application form which lists the types of additional information the Assessor might require so that the applicant has a full understanding of what is expected up front. If the conservation restriction and survey clearly satisfy the program's requirements, we recommend that little to no additional information is required as part of the application.

Full or Partial Abatement

An abatement would only apply to a corridor on the property that contains the trail and such corridor can be no wider than 100 feet. Presumably the amount of the abatement would be determined on a case-by-case basis. Applicants will likely expect a full abatement since they are keeping their land open to the public, have placed restrictions on their own use of the corridor, and have invested funds to prepare a land survey.

Discontinuance

The Public Act mentions "discontinuance" of the abatement in one instance; the Town Council or Board of Selectmen may vote to discontinue the abatement upon the sale or transfer of the land.

It is unclear if a municipality can discontinue the abatement for any other reason. Given that the trail will be protected in perpetuity and the expense of preparing a survey to apply for the program, a potential applicant likely needs reassurance that it could only be discontinued in very limited circumstances.

MODEL ORDINANCE

CRCOG has developed the following ordinance template based on the requirements contained in Public Act 23-207. Interested municipalities can tailor this to meet their specific needs. As discussed on page 3 of this guidance document, the eligibility language regarding greenway designation appears broad; this template generally uses the language from the Public Act. Please consult with local legal counsel prior to adoption.

TAX ABATEMENT FOR RECREATIONAL TRAILS

Section ____ This Tax Abatement for Recreational Trails Ordinance is Effective _____, 2024, and applicable to assessment years commencing on or after October 1, 2024.

(a) For the purposes of this section, (1) “nonprofit land conservation organization” means a nonprofit land conservation organization that is tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, (2) “greenway” ha the same meaning as provided in section 23-100 of the general statutes, and (3) “conservation restriction” has the same meaning as provided in section 47-42a of the general statutes.

(b) This ordinance is intended to provide for the abatement of real property taxes due on any portion of land that (1) meets the criteria for designation as a greenway established under subsection (b) of section 23-102 of the General Statutes, (2) is a terrestrial recreational trail with a clearly defined trail corridor that does not exceed one hundred feet in width at its widest point, and (3) is subject to a recorded permanent conservation restriction conveyed by the owner of the land, or such owner’s predecessor in title, to the municipality, the state or a nonprofit land conservation organization, provided such conservation easement or any other encumbrance on the land shall not prohibit the public use of any such terrestrial recreational trail for compatible recreation.

(c) An owner of land may apply for an abatement by filing a written application for such abatement with the Tax Assessor. Any application filed under this subsection shall be made upon a form prescribed by the assessor and shall include (1) a description of the land, (2) a copy of the recorded permanent conservation restriction concerning the land, (3) a copy of the deed that establishes such owner’s ownership interest in the land, (4) a certified land survey that depicts the boundaries of the terrestrial recreational trail on the land of such owner, and (5) such other information as the assessor may require to aid in determining whether such land qualifies for such tax abatement pursuant to such ordinance. Any certification of a survey required by this subsection shall be made by a licensed surveyor and such certification shall be made in accordance with Chapter 390 of the General Statutes.

(d) Not later than thirty days after receipt of a written application under subsection (c) of this section, the assessor shall submit such written application with the assessor's recommendation to either approve or deny the tax abatement based on the criteria set forth in subsection (b) of this section to the [legislative body]*

(e) The abatement of any real property taxes under subsection (b) of this section shall be approved by vote of the [legislative body].

(f) Any abatement under this section shall continue upon the sale or transfer of the land unless the legislative body votes to discontinue such abatement.

** Where the Legislative Body is a Town meeting, the application is considered and acted upon by the Board of Selectmen.*

EXCERPTS FROM PUBLIC ACT 23-207

PA 23-207 includes new legislation about other topics. This section only includes the legislation for tax abatements and reduced assessments for recreational trails.

Section 1. (NEW) (Effective October 1, 2023, and applicable to assessment years commencing on or after October 1, 2023)

(a) For the purposes of this section, (1) "nonprofit land conservation organization" means a nonprofit land conservation organization that is tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, (2) "greenway" has the same meaning as provided in [section 23-100](#) of the general statutes, and (3) "conservation restriction" has the same meaning as provided in [section 47-42a](#) of the general statutes.

(b) Each municipality may establish by ordinance a program to provide for the abatement of real property taxes due on any portion of land that (1) meets the criteria for designation as a greenway established under [subsection \(b\) of section 23-102](#) of the general statutes, (2) is a terrestrial recreational trail with a clearly defined trail corridor that does not exceed one hundred feet in width at its widest point, and (3) is subject to a recorded permanent conservation restriction conveyed by the owner of the land, or such owner's predecessor in title, to the municipality, the state or a nonprofit land conservation organization, provided such conservation easement or any other encumbrance on the land shall not prohibit the public use of any such terrestrial recreational trail for compatible recreation.

(c) Whenever any municipality enacts an ordinance required by subsection (b) of this section, an owner of land may apply for its abatement under such ordinance by filing a written application for such abatement with the assessor of such municipality. Any application filed under this subsection shall be made upon a form prescribed by the assessor and shall include (1) a description of the land, (2) a copy of the recorded permanent conservation restriction concerning the land, (3) a copy of the deed that establishes such owner's ownership interest in the land, (4) a certified land survey that depicts the boundaries of the terrestrial recreational trail on the land of such owner, and (5) such other information as the assessor may require to aid in determining whether such land qualifies for such tax abatement pursuant to such ordinance. Any certification of a survey required by this subsection shall be made by a licensed surveyor and such certification shall be made in accordance with chapter 390 of the general statutes.

(d) Not later than thirty days after receipt of a written application under subsection (c) of this section, the assessor shall submit such written application with the assessor's recommendation to either approve or deny the tax abatement based on the criteria set forth in subsection (b) of this section to the legislative body of the municipality or, in a municipality where the legislative body is a town meeting, to the board of selectmen.

(e) The abatement of any real property taxes under subsection (b) of this section shall be approved by vote of the legislative body of the municipality or, in a municipality where the legislative body is a town meeting, by vote of the board of selectmen.

(f) Any abatement under this section shall continue upon the sale or transfer of the land unless the legislative body of the municipality, or in a municipality where the legislative body is a town meeting, the board of selectmen, votes to discontinue such abatement.

Sec. 2. Subsection (a) of section 12-107e of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2023): (a) The planning commission of any municipality, in preparing a plan of conservation and development for such municipality, may designate upon such plan areas which it recommends for preservation as areas of open space land, provided such designation is approved by a majority vote of the legislative body of such municipality. Land, or a portion thereof, including any terrestrial recreational trail corridor that meets the criteria for designation as a greenway pursuant to chapter 454, included in any area so designated upon such plan as finally adopted may be classified as open space land for purposes of property taxation or payments in lieu thereof if there has been no change in the use of such area which has adversely affected its essential character as an area of open space land between the date of the adoption of such plan and the date of such classification.

