

## CHAPTER 569 — H.F.No. 432

*An act relating to soil and water conservation; prohibiting in certain counties practices which cause accelerated erosion or sedimentation; extending the joint legislative committee on agricultural land preservation and conservation; prescribing penalties; appropriating money; amending Laws 1979, chapter 315, section 2, as amended; proposing new law coded in Minnesota Statutes, chapter 40.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **PURPOSE.**

It is the purpose of this act to encourage and guide the use of land in accordance with its capabilities, to treat it according to its needs, to prevent the degradation of lands, streams, and rivers, and to protect and promote the health, safety, and general welfare of the people.

Sec. 2. **[40.19] DEFINITIONS.**

Subdivision 1. SCOPE. For the purposes of sections 3 to 11, the terms defined in this section have the meanings given them.

Subd. 2. EXCESSIVE SOIL LOSS. "Excessive soil loss" means soil loss resulting from erosion that is more rapid than the gradual erosion of land used by man when all reasonable soil and water conservation practices have been applied. "Excessive soil loss" may be evidenced by sedimentation on adjoining land or in any body of water. Soil loss is excessive if it is greater than the soil loss tolerance for each soil type described in the United States Soil Conservation Service Field Office technical guide.

Subd. 3. ADMINISTRATIVE ORDER. "Administrative order" means an order issued by the governing body of a statutory or home rule charter city, town, or county to notify an offending landowner of record that soil erosion is occurring in excess of limits specified in local regulations. The order shall contain the precise location of the offending party's property where erosion is taking place, state as nearly as possible the extent to which soil erosion thereon exceeds the limits established by the regulations, and specify time requirements by which measures to control the problem must be initiated and completed.

Subd. 4. ANNUAL PLAN. "Annual plan" means an annual program of work prepared by the soil and water conservation district according to the guidelines for annual planning published by the state board.

Subd. 5. CONSERVATION PRACTICES, STANDARDS AND SPECIFICATIONS. "Conservation practices, standards and specifications" means standards containing a definition, purpose, and conditions under which the practice applies including design requirements, and specifications containing a

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statement of details required for installing a conservation practice, including kinds, quality, and quantity of work and materials needed to meet the standards.

**Subd. 6. DEVELOPMENT ACTIVITY.** “Development activity” means any physical disturbance by man of the land associated with development activities which may result in sedimentation of adjacent lands or waters. These activities include, but are not limited to, clearing, grading, excavating, transporting, and filling lands. Federal, state, county, and municipal road construction designed according to department of transportation standard specifications for construction are exempt from this act.

**Subd. 7. EROSION.** “Erosion” means the process by which the surface of the land is worn away by the action of water, wind, or gravity.

**Subd. 8. GOVERNING BODY.** “Governing body” means the elected governing body of a county, city, or town or their designated officials or agents. Agents may include soil and water conservation districts, water management organizations, joint powers boards, watershed districts, or other governmental entities responsible for resource management within the affected jurisdiction.

**Subd. 9. LAND OCCUPIER.** “Land occupier” means a person, firm, corporation, municipality, or other legal entity who holds title to, or is in possession of any lands, whether as owner, lessee, renter, tenant, or otherwise. The term includes both the owner and the occupier of the land when they are not the same.

**Subd. 10. LONG-RANGE PLAN.** “Long-range plan” means a multi-year program of work prepared by the soil and water conservation district pursuant to Minnesota Statutes, section 40.07, subdivision 9.

**Subd. 11. SEDIMENT.** “Sediment” means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice, and has come to rest on the earth’s surface.

**Subd. 12. SEDIMENTATION.** “Sedimentation” means the process or action of depositing sediment that, upon inspection, is determined to have been caused by accelerated erosion as provided in section 7.

**Subd. 13. SOIL LOSS LIMIT.** “Soil loss limit” means the maximum amount of soil loss from water or wind erosion, expressed in tons per acre per year, that will be permitted by local regulations on a given soil.

**Subd. 14. SOIL AND WATER CONSERVATION PRACTICE.** “Soil and water conservation practice” or “practice” means a permanent or temporary vegetative or structural measure that when applied to the land will contribute to the control of wind and water erosion. Permanent practices include but are not limited to grassed waterways, terraces, field windbreaks, water control structures, grade stabilization structures, sediment retention structures, strip-cropping, and

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other permanent practices approved by the state soil and water conservation board. A permanent practice is deemed to have an effective life in excess of ten years. Temporary practices include conservation tillage, contour farming, grasses and legumes in rotation, emergency tillage, and any other cultural practices approved by the state soil and water conservation board.

Subd. 15. SUPPLEMENTAL ORDER. "Supplemental order" means an order supplemental to an administrative order and issued by the governing body to notify an offending party that cost sharing for the required soil and water conservation practices has been approved. A supplemental order shall state time requirements by which measures to control the erosion problem must be initiated and completed. These time limits supersede the dates specified in an administrative order.

Subd. 16. TECHNICAL GUIDE. "Technical guide" means the guide developed by USDA Soil Conservation Service adopted by soil and water conservation districts containing technical information including methods and procedures by which the various types of erosion can be measured, and conservation practice standards and specifications required in the application of soil and water conservation practices.

### **Sec. 3. [40.20] SOIL LOSS CONTROL.**

Each statutory or home rule charter city, town, or county that has planning and zoning authority under sections 366.10 to 366.19, 394.21 to 394.37, or 462.351 to 462.365 is encouraged to adopt a soil loss ordinance as provided in section 4. Ordinances adopted by local units within the metropolitan area defined in section 473.121 must be consistent with local water management plans adopted under section 473.879.

### **Sec. 4. [40.21] PROMULGATION OF RULES BY THE COMMISSIONER OF AGRICULTURE; PERIODIC REVIEW.**

The commissioner of agriculture, in consultation with counties, soil and water conservation districts, and other appropriate agencies, shall promulgate rules which shall serve as a guide to enable local governments to carry out the provisions of this act. The rules developed by the commissioner of agriculture shall include:

(a) A model ordinance which specifies the technical and administrative procedures required to implement this act. The model ordinance shall be considered to be the minimum regulation to be adopted.

(b) Administrative procedures required of the state soil and water conservation board for carrying out the provisions of this act.

At least once every two years the commissioner of agriculture shall review the rules in cooperation with counties, soil and water conservation districts, and

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appropriate agencies to ensure their continued applicability and relevance. The rules may be revised if deemed necessary by the commissioner of agriculture.

**Sec. 5. [40.22] EXCESSIVE SOIL LOSS PROHIBITED.**

Subdivision 1. PROHIBITED ACTIVITIES. A person may not cause, conduct, contract for, or authorize an activity which causes excessive soil loss.

Subd. 2. AGRICULTURAL LAND. A land occupier of agricultural land is not violating subdivision 1 if he is using farming methods which do not create excessive soil loss.

Subd. 3. WOODLAND. A land occupier who uses wooded land for pasture must ensure that proper management is used to prevent excessive soil loss due to overgrazing or cattle paths.

**Sec. 6. [40.23] ENFORCEMENT.**

Subdivision 1. COMPLAINT. A land occupier adversely affected by the effects of excessive soil loss, or an elected local government official, may submit a verbal or written complaint against a land occupier alleging that excessive soil loss has occurred or is occurring. The complaint must be made to the governing body of the local government unit that has adopted an ordinance as provided in section 4. If the complaint is verbal, it must be followed by a written complaint within 72 hours. The complaint shall include the approximate dates and location of the alleged violation and describe the source, nature, and extent of the excessive soil loss alleged to have occurred or which is occurring. The complaint must be made to the governing body of the local government unit that has adopted a soil loss ordinance as provided in section 4.

**Sec. 7. [40.24] INSPECTION OF LAND UPON COMPLAINT.**

The governing body of the local government unit shall inspect or cause to be inspected any land within its jurisdiction, upon receipt of a complaint that soil loss is occurring there in excess of the limits established by the local unit's soil loss regulations. The burden of proof shall be on the local government unit to prove that an alleged violation exists. The person against whom the complaint is made must be notified of the time of the investigation and will be given the opportunity to be present when the investigation is made. If the governing body of the local unit finds that excessive soil loss is occurring on the land inspected, they shall issue an administrative order to the landowner of record, and to the occupant of the land if possible, describing the land and stating the extent to which soil loss on the land exceeds the limits established by the regulations. The order shall be delivered either by personal service or by certified mail to each of the persons to whom it is directed, and shall state a time, not more than 90 days after service or mailing of the notice of the order, by which work needed to establish specific soil and water conservation practices to stop the excessive soil loss must be commenced, and a time not more than one year after the service or

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mailing of the notice of the order by which the work must be satisfactorily completed.

**Sec. 8. [40.25] EROSION CONTROL PLAN FOR DEVELOPMENT ACTIVITIES.**

A person engaged in a development activity that will disturb over one acre of land must submit to the governing body a sedimentation control plan that will prevent excessive soil loss before the development activity is to begin.

**Sec. 9. [40.26] APPLICATION FOR COST-SHARING FUNDS.**

Except in the case of a development activity, a land occupier may not be required to establish soil conservation practices unless state cost-sharing funds have been specifically approved for that land and have been made available to the land occupier in an amount equal to at least 75 percent of the cost of the permanent conservation practices on a voluntary basis, and a 50 percent cost share if implementation is not commenced following the issuance of an administrative order as provided in this section. The state soil and water conservation board shall review these requirements at least once each year, and may authorize districts in any particular case to provide a higher percentage of public cost sharing than is required by this section. To aid in this determination, the state board may consider the location of the affected area in relation to the priority areas as established in the district annual and long-range plans. Evidence that an application for state cost-sharing funds has been submitted to the soil and water conservation district shall constitute commencement of the work within the meaning of section 7. When notified of the approval of the application, the local unit shall issue to the same parties who received the original administrative order, or their successors in interest, a supplemental order, to be delivered in the same manner as provided by section 7. The supplemental order shall state a time, not more than 90 days after approval of the application for state cost-sharing funds, by which the work needed to comply with the original administrative order shall actually be commenced, and a time not more than one year thereafter when the work is to be satisfactorily completed.

**Sec. 10. [40.27] APPLICABILITY.**

The provisions of sections 5 to 9 are not applicable without the adoption of an ordinance by the county or local government unit.

**Sec. 11. [40.28] PENALTY.**

A violation of an administrative order issued under section 7 or a supplemental order issued under section 9 is a misdemeanor.

Sec. 12. Laws 1979, chapter 315, section 2, as amended by Laws 1981, chapter 78, section 1, and Laws 1982, chapter 512, section 10, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

**Sec. 2. JOINT LEGISLATIVE COMMITTEE.**

A joint legislative committee on agricultural land preservation and conservation shall be established by July 1, 1979, and shall expire by June 30, 1984 1994, unless extended by legislative action. The committee shall be composed of eight members of the house of representatives from the transportation, agriculture, environment and natural resources, local and urban affairs, and tax committees appointed by the speaker and the chairman of the committee on rules and legislative administration; and eight members of the senate from the transportation, agriculture and natural resources, local government, tax, and governmental operations committees appointed by the subcommittee on committees. The committee shall elect a chairman from among its members. The expenses of and per diem payments to committee members shall be paid from the legislative expense fund of their respective body upon approval of the chairman of the joint committee. Other expenses of the committee shall be evenly divided between the house of representatives and the senate.

**Sec. 13. APPROPRIATION.**

The sum of \$10,000 is appropriated from the general fund to the commissioner of agriculture to adopt rules under section 4.

Approved April 26, 1984

**CHAPTER 570 — H.F.No. 560**

*An act relating to Cook County; permitting the sale of certain land.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

**Section 1. COOK COUNTY; LAND SALE.**

Notwithstanding any contrary provision of Minnesota Statutes, section 282.018, Cook County may sell and the county and state shall provide a proper conveyance of the property described in this section. The sale shall be conducted in accordance with Minnesota Statutes, sections 282.01 to 282.132.

Government Lot 5, Except east 200 feet, Section 26, Township 62 North, Range 1 West.

Government Lot 2, Except north of road, Section 27, Township 62 North, Range 1 West.

**Sec. 2. LOCAL APPROVAL.**

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