

TITLE 5
PUBLIC SAFETY

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CHAPTER 1
POLICE DEPARTMENT

SECTION:

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5-1-1: DEPARTMENT CREATED: There is hereby created and established a department of the village government which shall be known as the police department. The police department shall consist of the chief of police and such other police officers as may be appointed, hired or otherwise retained from time to time by the president with the advice and consent of the village board of trustees. (2007 Code)

5-1-2: CHIEF OF POLICE:

- A. **Office Created:** There is hereby created and established the office of chief of police.
- B. **Appointment And Term:** The chief of police shall be appointed by the president with the advice and consent of the board of trustees, and shall hold office for and during the municipal year in which he is appointed and qualified, unless a longer term is authorized by ordinance or he is sooner removed, as provided by law.
- C. **Powers And Duties:**
 - 1. **Rules And Regulations:** The chief of police shall make or prescribe such rules and regulations for the conduct and guidance of the members of the police department as he shall deem advisable,

and such rules, when approved by the village board of trustees, shall be binding on such members.

2. Attend Meetings; Execute Orders And Processes: The chief of police shall attend, when requested by the president, either in person or by deputy, all meetings of the village board of trustees and shall execute all its orders. The chief of police shall also execute all warrants or other legal processes required to be executed by him under any ordinance of the village or laws of the state.

3. Custodian Of Lost, Abandoned And Stolen Property: The chief of police shall be the custodian of all lost and abandoned or stolen property in the village.

4. Minors: The chief of police shall ensure that the police department complies with the requirements of section 3 of the minor identification and protection act, enacted by the 83rd general assembly as found in 325 Illinois Compiled Statutes 45/3. (2007 Code)

5-1-3: **OATH OF OFFICE:** As required by 65 Illinois Compiled Statutes 5/3.1-10-25, the chief of police and all other police officers appointed, hired or retained by the village shall, before entering upon the duties of their offices, take and subscribe the oath or affirmation required of them by the Illinois constitution and file same with the village clerk. (2007 Code)

5-1-4: **BOND:** As required by 65 Illinois Compiled Statutes 5/3.1-10-30, the chief of police and all other police officers appointed, hired or retained by the village shall, before entering upon the duties of their offices, execute a bond with security, to be approved by the village board of trustees, which bond shall thereafter be filed with the village clerk. The bond shall be payable to the village of Ashkum in the penal sum as directed by resolution or ordinance conditional upon the faithful performance of the duties of the office and the payment of all monies received by the officer, according to the laws and the ordinances of the village. (2007 Code)

5-1-5: **DUTIES OF DEPARTMENT MEMBERS; SUPERVISION:** The chief of police and all other members of the police department shall perform all duties prescribed by the village board of trustees for the

preservation of the public peace and shall enforce all the laws of the village, the state and the United States of America. The chief of police shall be responsible for the performance of the police department, and all persons who are members of the department shall serve subject to the orders of the chief of police. (2007 Code)

5-1-6: SERVE AS WITNESSES: It shall be the duty of each and every member of the police department to appear, as may be necessary, as a witness in the prosecution of a violation of a village ordinance or of any state or federal law. No member shall retain any witness fees for service as a witness in any action or suit to which the village is a party, and fees paid for such services shall be turned over to the chief of police, who shall deposit same with the village clerk. (2007 Code)

5-1-7: REMOVAL OF OFFICERS:

- A. Failure To Perform Duties; Crimes:** Any member of the police department who shall neglect or refuse to perform any duty required of him by the ordinances or resolutions of the village or the rules and regulations of the police department, or who shall, in the discharge of his official duties, be guilty of any fraud, favoritism, extortion, oppression or wilful wrong or injustice, shall be subject to removal from office.
- B. Use Of Alcohol; Intoxication:** No member of the police department, while wearing the official police officer's badge of the village, shall indulge in the use of intoxicating liquor of any kind, and intoxication at any time shall be sufficient cause for removal from office.
- C. Possession Of Illegal Drugs:** No member of the police department shall possess any illegal drug except in the line of duty, and possession of any such illegal drug, not in the line of duty, shall be sufficient for removal from office. (2007 Code)

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CHAPTER 2

EMERGENCY SERVICES AND DISASTER AGENCY

SECTION:

- 5-2- 1: Agency Created; Composition
- 5-2- 2: Coordinator
- 5-2- 3: Functions
- 5-2- 4: Service As Mobile Support Team
- 5-2- 5: Agreements With Other Political Subdivisions
- 5-2- 6: Emergency Action
- 5-2- 7: Compensation
- 5-2- 8: Reimbursement By State
- 5-2- 9: Purchases And Expenditures
- 5-2-10: Oath Of Office
- 5-2-11: Office
- 5-2-12: Appropriation; Tax Levy

5-2-1: **AGENCY CREATED; COMPOSITION:** There is hereby created the Ashkum ESDA to prevent, minimize, repair, and alleviate injury or damage resulting from disaster caused by enemy attack, sabotage, or other hostile action, or from natural or manmade disaster, in accordance with the "Illinois emergency management agency act"¹. This ESDA shall consist of the coordinator and such additional members as may be selected by the coordinator. (Ord. 1978-1, 2-6-1978; amd. 2007 Code)

5-2-2: **COORDINATOR:**

- A. Appointment; Term: The coordinator of the village ESDA shall be appointed by the village president and shall serve until removed by same.
- B. Powers And Duties: The coordinator shall have direct responsibility for the organization, administration, training, and operation of the

1. 20 ILCS 3305/1 et seq.

ESDA, subject to the direction and control of the village president as provided by statute.

- C. **Vacancy In Office:** In the event of the absence, resignation, death or inability to serve as the coordinator, the village president or any person designated by him, shall be and act as coordinator until a new appointment is made as provided in this chapter. (Ord. 1978-1, 2-6-1978)

5-2-3: **FUNCTIONS:** The village ESDA shall perform such ESDA functions within the village as shall be prescribed in and by the state EMA plan and program prepared by the governor, and such orders, rules and regulations as may be promulgated by the governor, and in addition shall perform such duties outside the corporate limits as may be required pursuant to any mutual aid agreement with any other political subdivision, municipality, or quasi-municipality entered into as provided in the "the state EMA act". (Ord. 1978-1, 2-6-1978; amd. 2007 Code)

5-2-4: **SERVICE AS MOBILE SUPPORT TEAM:**

- A. **Members Designated:** All or any members of the village ESDA organization may be designated as members of a mobile support team created by the director of the state EMA as provided by law. (Ord. 1978-1, 2-6-1978; amd. 2007 Code)
- B. **Team Leader:** The leader of such mobile support team shall be designated by the coordinator of the village ESDA organization.
- C. **Compensation; Powers And Duties:** Any member of a mobile support team who is a village employee or officer while serving on call to duty by the governor or the state director shall receive the compensation and have the powers, duties, rights and immunities incident to such employment or office. Any such member who is not a paid officer or employee of the village, while so serving, shall receive from the state reasonable compensation as provided by law. (Ord. 1978-1, 2-6-1978)

5-2-5: **AGREEMENTS WITH OTHER POLITICAL SUBDIVISIONS:**
The coordinator of ESDA may negotiate mutual aid agreements with other cities or political subdivisions of the state, but no such agreement shall be effective until it has been approved by the village

president and by the state director of EMA. (Ord. 1978-1, 2-6-1978; amd. 2007 Code)

5-2-6: **EMERGENCY ACTION:** If the governor proclaims that a disaster emergency exists in the event of actual enemy attack upon the United States or the occurrence within the state of Illinois of a major disaster resulting from enemy sabotage or other hostile action, or from manmade or natural disaster, it shall be the duty of the village ESDA to cooperate fully with the state EMA and with the governor in the exercise of emergency powers as provided by law. (Ord. 1978-1, 2-6-1978)

5-2-7: **COMPENSATION:** Members of the ESDA who are paid employees or officers of the village, if called for training by the state director of EMA, shall receive for the time spent in such training the same rate of pay as is attached to the position held; members who are not such village employees or officers shall receive for such training time such compensation as may be established by the village president. (Ord. 1978-1, 2-6-1978)

5-2-8: **REIMBURSEMENT BY STATE:** The village treasurer may receive and allocate to the appropriate fund any reimbursement by the state to the village for expenses incident to training members of the ESDA as prescribed by the state director of EMA, compensation for services and expenses of members of a mobile support team while serving outside the village in response to a call by the governor or state director of EMA, as provided by law, and any other reimbursement made by the state incident to ESDA activities as provided by law. (Ord. 1978-1, 2-6-1978; amd. 2007 Code)

5-2-9: **PURCHASES AND EXPENDITURES:**

A. Authority Of President: The village president may, on recommendation of the village coordinator of ESDA, authorize any purchase of contracts necessary to place the village in a position to combat effectively any disaster resulting from the explosion of any nuclear or other bomb or missile, and to protect the public health and safety, protect property, and provide emergency assistance to victims in the case of such disaster, or from manmade or natural disaster. (Ord. 1978-1, 2-6-1978)

- B. **Authority Of Coordinator:** In the event of enemy caused or other disaster, the village coordinator of ESDA is authorized, on behalf of the village, to procure such services, supplies, equipment or material as may be necessary for such purposes, in view of the exigency without regard to the statutory procedures or formalities normally prescribed by law pertaining to village contracts or obligations, as authorized by "the state EMA act" provided, that if the village board meets at such time, the coordinator shall act subject to the directions and restrictions imposed by that body. (Ord. 1978-1, 2-6-1978; amd. 2007 Code)

5-2-10: **OATH OF OFFICE:** Every person appointed to serve in any capacity in the village ESDA organization shall, before entering upon his duties, subscribe to the following oath, which shall be filed with the coordinator:

I, _____, do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions, and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I nor have I been a member of any political party or organization that advocated the overthrow of the government of the United States or of this State by force or violence; and that during such time as I am affiliated with the Ashkum ESDA organization, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence.

(Ord. 1978-1, 2-6-1978)

5-2-11: **OFFICE:** The village president is authorized to designate space in a village building, or elsewhere as may be provided for by the village president, for the village ESDA as its office. (Ord. 1978-1, 2-6-1978)

5-2-12: **APPROPRIATION; TAX LEVY:** The village president may make an appropriation for ESDA purposes in the manner provided by law, and may levy in addition for ESDA purposes only, a tax not to exceed five cents (\$0.05) per one hundred dollars (\$100.00) of the assessed value of all taxable property in addition to all other taxes, as provided by "The State EMA Act"; however, that amount collectable under such levy shall in no event exceed twenty five cents (\$0.25) per capita. (Ord. 1978-1, 2-6-1978; amd. 2007 Code)

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CHAPTER 3

DANGEROUS, VICIOUS ANIMALS

SECTION:

- 5-3-1: Definition
- 5-3-2: Dangerous, Vicious Animals Prohibited
- 5-3-3: Authority To Kill
- 5-3-4: Responsibility Of Landlord
- 5-3-5: Application And Effect Of Provisions
- 5-3-6: Enforcement And Penalty

5-3-1: **DEFINITION:**

- A. As used in this chapter, a "dangerous animal" or "vicious animal" is:
 - 1. Any individual animal that, when unprovoked, inflicts bites and attacks a human being or other animal either on public or private property.
 - 2. Any individual animal with a propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise do any act that might endanger the safety of human beings, domestic animals or any other property of another, including, but not limited to, a disposition to mischief or fierceness which might lead to attack of the foregoing.
 - 3. Any individual animal which attacks a human being or domestic animal without provocation, whether in play, anger or outbreak of untrained nature.
- B. No animal shall be deemed "vicious" if it bites, attacks or menaces a trespasser on the property of its owner, or harms or menaces anyone who has tormented or abused it, or is a professionally trained animal for law enforcement or guard duties. (Ord. 2005-01, 2-22-2005)

5-3-2: DANGEROUS, VICIOUS ANIMALS PROHIBITED:

- A. No person shall keep any vicious animal anywhere in the village. (Ord. 2005-01, 2-22-2005)
- B. It shall be unlawful to permit any vicious animal of any kind to run at large within the village. (Ord. 2005-01, 2-22-2005; amd. 2007 Code)

5-3-3: AUTHORITY TO KILL:

- A. The chief of police or other authorized village official or employee is authorized to kill any dangerous animal of any kind when it is necessary for the protection of any person or property.
- B. It shall be lawful for the chief of police or other authorized village official or employee to kill any vicious animal at large within the limits of the village which cannot be safely taken up and impounded. (Ord. 2005-01, 2-22-2005)

5-3-4: RESPONSIBILITY OF LANDLORD:

- A. No landlord or landlord's agent shall knowingly permit any tenant to move a vicious animal into any building or premises owned or controlled by such landlord or agent.
- B. No landlord or landlord's agent shall permit any person to keep any vicious animal in any building or premises owned or controlled by such landlord or agent.
- C. Any landlord or agent learning of any vicious animal in any building or premises owned or controlled by such landlord or agent shall notify the person having such animal to remove the animal from the village immediately. (Ord. 2005-01, 2-22-2005)

5-3-5: APPLICATION AND EFFECT OF PROVISIONS:

- A. Police Dogs: It is not the intent of this chapter to prohibit the police department from using any trained dog that may attack upon command; provided, that each such dog must be in the presence of its handler or confined in accordance with police department policy at all times.

- B. Impoundment: This chapter shall not prohibit the temporary impoundment in a public pound of any animal.
- C. Rabies Suspects: This chapter shall not prohibit the holding of any vicious animal suspected of rabies or any vicious animal that has bitten a person; provided, that such vicious animal may be held only in a public pound or in a secure place operated or immediately supervised by a licensed veterinarian. (Ord. 2005-01, 2-22-2005)

5-3-6: ENFORCEMENT AND PENALTY:

- A. Nuisance Declared: Any violation of this chapter is hereby declared to be a nuisance.
- B. Remedies: In addition to other relief provided by this chapter, the village attorney may apply to a court of competent jurisdiction for any injunction to prohibit the continuation of any violation of this chapter. Such application for relief may include the seeking of a temporary restraining order, temporary injunction or permanent injunction.
- C. Responsibility For Expenses: The owner of such animal is responsible for any expenses incurred in connection with the impoundment, supervision and examination by a veterinarian, inoculations and, if necessary, preparation of the carcass for laboratory examinations, and fee for the laboratory examination and disposal of the animal.
- D. Penalty: Any person violating any provision of this chapter shall be subject to penalty of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each offense, and a separate offense shall be deemed committed for each day during or on which a violation occurs or continues. (Ord. 2005-01, 2-22-2005)

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CHAPTER 4

GENERAL OFFENSES

SECTION:

- 5-4-1: Obscenity
- 5-4-2: Public Indecency
- 5-4-3: Fireworks Sales

5-4-1: **OBSCENITY:**

- A. Definition: As used in this section, the term "obscene", when used in reference to any material or performance, means:

1. The average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest;

2. The average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and

3. Taken as a whole, it lacks serious literary, artistic, political or scientific value.

- B. Prohibited Acts: A person commits obscenity, which is hereby prohibited, when, with the knowledge of the nature or content thereof, or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

1. Sells, delivers or provides, or offers or agrees to sell, deliver or provide, any obscene writing, picture, record or other representation or embodiment of the obscene;

2. Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene;
3. Publishes, exhibits or otherwise makes available anything obscene;
4. Performs an obscene act or otherwise presents an obscene exhibition of his body for gain;
5. Creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this section, or of the penal laws or regulations of any other jurisdiction; or
6. Advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

C. Interpretation Of Evidence:

1. Obscenity shall be judged with reference to ordinary adults; except, that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.
2. Where circumstances of production, presentation, sale, dissemination, distribution or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.
3. In any prosecution for an offense under this section, evidence shall be admissible to show:
 - a. The character of the audience for which the material was designed or to which it was directed.
 - b. What the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would have on the behavior of such people.
 - c. The artistic, literary, scientific, educational or other merits of the material, or absence thereof.

d. The degree, if any, of public acceptance of the material in this state.

e. Appeal to prurient interest, or absence thereof, in advertising or other promotion of the material.

f. The purpose of the author, creator, publisher or disseminator.

D. Prima Facie Evidence Of Intent To Disseminate: The creation, purchase, procurement or possession of a mold, engraved plate or other embodiment of obscenity specially adapted for reproducing multiple copies, or the possession of more than three (3) copies of obscene material shall be prima facie evidence of an intent to disseminate.

E. Affirmative Defenses: It shall be an affirmative defense to obscenity that the dissemination:

1. Was not for gain and was made to personal associates other than children under eighteen (18) years of age.

2. Was to institutions or individuals having scientific or other special justification for possession of such material. (Ord. 2002-04, 4-23-2002)

F. Penalty: Any person who violates the provisions of subsection B of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not less than one hundred dollars (\$100.00) and not more than the amount provided in section 1-4-1 of this code. (Ord. 2002-04, 4-23-2002; amd. 2007 Code)

5-4-2: **PUBLIC INDECENCY:**

A. Definitions:

NUDITY: The showing of the human male or female genitals, pubic area, female breast with less than a fully opaque covering of any part of the nipple, the covered male genitals in a discernibly turgid state or that portion of the buttocks which would be covered by a properly worn "thong" type bikini bottom.

PUBLIC PLACE: Any location frequented by the public, or where the public is likely to be present, or where a person may reasonably be expected to be observed by members of the public. "Public places" include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, nightclubs, country clubs, cabarets, and meeting facilities utilized by religious, social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed a "public place". "Public place" shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors' offices, churches, synagogues or similar places when used for circumcisions, baptisms or similar ceremonies, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home; nor shall it include a person appearing in a state of nudity as a model in a class operated by:

1. A proprietary school licensed by the state;
2. A college, junior college or university supported entirely or partly by taxation; or
3. A private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported by entirely or partly by taxation or an accredited private college.

B. Interpretation:

1. This section is patterned after Indiana public indecency statute upheld by the United States supreme court in Barnes v. Glen Theatre, Inc., 501 U.S. § 60, 111 S. Ct. 2456 (1991). It is the intent of the village that this section be interpreted in the same manner as said statute.

2. It is the intent of the village that the definition of "public place" set forth in subsection A of this section shall be interpreted to be no more broad than the definition of "public place" set forth in 720 Illinois Compiled Statutes 5/11-9 (formerly Illinois Revised Statutes, chapter 18, paragraph 11-9) as upheld by the Illinois supreme court in People v. Garrison, 62 Ill 2nd 444, 412 NE 2nd 482 (1980).

3. Whenever the context requires or permits, the gender and number of words shall be interchangeable.

C. Prohibited Acts: A person commits the offense of public indecency if he knowingly or intentionally, in a public place:

1. Engages in sexual intercourse;
2. Engages in deviate sexual conduct;
3. Appears in a state of nudity; or
4. Fondles the genitals of himself or another person.

D. Encouraging, Facilitating Public Indecency: A person who knowingly or intentionally encourages or facilitates another person's commission of the offense of public indecency shall be deemed to have committed the offense itself.

E. Premises Associated With Violations Deemed Nuisance: A club, restaurant, theater or other place where violations of this section occur shall be deemed a public nuisance, which shall be subject to abatement. (Ord. 2002-04, 4-23-2002)

F. Penalty: A person convicted of the offense of public indecency shall be fined as provided in section 1-4-1 of this code for each offense and may be enjoined from continuing the conduct determined to be public indecency. (Ord. 2002-04, 4-23-2002; amd. 2007 Code)

5-4-3: **FIREWORKS SALES:** No person or persons shall in any manner sell, barter or give to any person or persons, within the corporate limits of the village, any fireworks, firecrackers, torpedoes, Roman candles, sky rockets or other pyrotechnic displays. Every person who is guilty of violation of any of the provisions of this section shall, upon conviction, be fined in any sum not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00) for each and every offense for which he may be convicted. (Ord. 2A, 4-6-1931)

CHAPTER 5

MINORS

SECTION:

5-5-1: Responsibility Of Parent Or Guardian

5-5-1: **RESPONSIBILITY OF PARENT OR GUARDIAN:**

- A. Definitions: As used in this section, unless the context otherwise requires, the terms specified have the meanings ascribed to them, as follows:

LEGAL GUARDIAN: A person appointed guardian, or given custody of a minor by a circuit court of the state, but does not include a person appointed guardian or given custody of a minor under the juvenile court act¹.

MINOR: A person who is above the age of eleven (11) years, but not yet eighteen (18) years of age.

- B. Responsibility Of Parent Or Guardian; Violations: The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary, to have failed to exercise proper parental responsibility, and said minor shall be deemed to have committed the acts described below with the knowledge and permission of the parent or guardian, in violation of this section, upon the occurrence of the events described in this subsection:

1. An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law or statute prohibiting intentional, wilful, malicious, or wanton acts causing injury to a person or property, or shall have

1. 705 ILCS 405/1-1 et seq.

incurred nonjudicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute prohibiting intentional, wilful, or malicious acts causing injury to a person or property; and

2. Said parent or legal guardian shall have received a written notice thereof, either by certified or registered mail, return receipt requested, or by personal service, with a certificate of personal service returned from the village police department following said adjudication or nonjudicial sanction; and

3. If at any time within one year following receipt of the notice set forth in subsection B2 of this section, said minor is either adjudicated to be in violation of any ordinance, law or statute as described in subsection B1 of this section, or shall have incurred nonjudicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law or statute as described in subsection B1 of this section.

C. Penalties:

1. Any person convicted of any violation of the provisions of this section shall be fined not less than twenty five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each offense.

2. In addition to subsection C1 of this section, the legal guardian of said minor is to make restitution for any public or private property damaged. (Ord. 1976-5, 10-5-1976)