

**ORDINANCE NO. 892-C.S.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA  
REPEALING AND REPLACING CHAPTER 19, "ACQUISITION AND USE OF MILITARY  
EQUIPMENT" OF TITLE 4 "PUBLIC SAFETY" OF THE PACIFICA MUNICIPAL CODE  
RENEWING THE MILITARY EQUIPMENT USE POLICY**

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**WHEREAS**, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, relating to the use of military equipment by law enforcement agencies; and

**WHEREAS**, Assembly Bill 481, codified at California Government Code sections 7070 through 7075, requires law enforcement agencies to obtain approval of the applicable governing body prior to taking certain actions relating to the funding, acquisition, solicitation, or use of military equipment; and

**WHEREAS**, Assembly Bill 481, requires that the approval by the governing body be by an ordinance adopting a military equipment use policy, at a regular meeting held pursuant to open meeting laws; and

**WHEREAS**, Assembly Bill 481 allows the governing body of a city to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations with respect to a military equipment use policy; and

**WHEREAS**, a draft of the Pacifica Police Department Policy 705 "Military Equipment" was published on the Department's internet website, and provided to the City Council at least 30 days prior to public hearing in accordance with requirements of Government Code section 7071; and

**WHEREAS**, the Pacifica Police Department's Lexipol Policy 705 "Military Equipment" meets the requirements of California Government Code section 7070, subdivision (d); and

**WHEREAS**, the military equipment identified in Policy 705 "Military Equipment" is necessary, because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety; and

**WHEREAS**, Policy 705 "Military Equipment" will safeguard the public's welfare, safety, civil rights, and civil liberties; and

**WHEREAS**, the military equipment identified in Policy 705 "Military Equipment" is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety; and

**WHEREAS**, the City Council of the City of Pacifica adopted Ordinance No. 877-C.S. which became effective on May 25, 2022, adopting the City of Pacifica's Military Equipment Policy, Lexipol Policy 705 "Military Equipment"; and

**WHEREAS**, in accordance with Government Code section 7071(e), the Police Department has prepared the 2022 Annual Military Equipment Use Report 2022 ("Report"), which was made available to Council on June 4, 2023, and made available to the public on the Pacifica Police Department's website on June 2, 2023; and

**WHEREAS**, the Police Department held a well-publicized and conveniently located community engagement meeting at Pacifica Java on June 14, 2023, where the public discussed and asked questions regarding the Report and the Pacifica Police Department's funding, acquisition, or use of military equipment; and

**WHEREAS**, the City Council of the City of Pacifica has been presented with the Report by the City of Pacifica Police Department and has determined that use of each type of military equipment identified in that report has complied with the military equipment use policy that was in effect at the time and satisfies all of the requirements specified in Government Code section 7072.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFICA DOES ORDAIN AND FIND AS FOLLOWS:**

**Section 1. Recitals.** The City Council of the City of Pacifica does hereby find the above referenced recitals are true and correct and material to the adoption of this Ordinance.

**Section 2. Policy Renewed.** The City Council finds that the Report by the City of Pacifica Police Department meets the requirements of Government Code section 7072 and the use of military equipment complied with the standards of use authorized. Therefore, the City Council hereby renews and adopts the Pacifica Police Department's Policy 705 "Military Equipment", found here: <https://www.cityofpacifica.org/departments/police/transparency>

**Section 3. Repeal and Replacement of Chapter 19.** Chapter 19, "Acquisition and Use of Military Equipment" of Title 4 "Public Safety" of the Pacifica Municipal Code is hereby repealed in its entirety and shall be replaced to read as follows:

"The Pacifica Police Department's Policy 705 "Military Equipment" shall be maintained on the Pacifica Police Department's website."

**Section 4. CEQA.** The City Council finds that this ordinance and the City of Pacifica Police Department's Policy 705 and the Annual Report are exempt from the provisions of the California Environmental Quality Act ("CEQA") because they will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a "project," as defined in Section 15378 of the CEQA Guidelines.

**Section 5. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentence, clauses or phrases be declared unconstitutional.

**Section 6. Publication.** The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with State Law.

**Section 7. Effective Date.** This Ordinance shall be in full force and effect thirty (30) days after its adoption and shall be published and posted as required by law.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Pacifica, California, held on the 11<sup>th</sup> day of September, 2023, by the following vote:

**AYES**, Councilmembers: *Beckmeyer, Bier, Bigstyk, Boles, Vaterlaus.*

**NOES**, Councilmembers: *n/a*

**ABSENT**, Councilmembers: *n/a*

**ABSTAIN**, Councilmembers: *n/a*

*Tygarjas T. Bigstyk*  
Tygarjas Twyrls Bigstyk, Mayor

ATTEST:

*Sarah Coffey*  
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Sarah Coffey, City Clerk

APPROVED AS TO FORM:

*Michelle Kenyon*  
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Michelle Kenyon, City Attorney