



Memorandum

**TO: HONORABLE MAYOR
& CITY COUNCIL**

FROM: Councilmember Johnny Khamis
Councilmember Devora "Dev" Davis
Councilmember Lan Diep

**SUBJECT: AMENDMENTS TO THE
TENANT PROTECTION
ORDINANCE**

DATE: November 9, 2017

Approved:

Date:

11/9/2017

RECOMMENDATIONS

The City Council directs staff to accept the staff recommendation and apply the following modifications to the Amendments to the Tenant Protection Ordinance (TPO):

1. Implement a 12-month trial period such that the provisions of the TPO will take affect only after 12 months of tenancy.
2. Address concerns and impacts of overcrowding by:
 - a. Defining the term "overcrowding" using the HUD definition of two (2) people per bedroom plus one (1); and,
 - b. Including children over the age of six (6) in the total tenant count per unit.

BACKGROUND

1. When the Tenant Protection Ordinance (TPO) was first adopted there was no provision for the tenant and the property owner to establish a history and develop a positive renter-owner relationship before imposing the provisions of the TPO. In light of provisions in the TPO that allow for eviction only for specific, approved reasons and the fact that criminal activity does not, in and of itself, constitute one of these valid reasons for eviction, the property owner should have a reasonable period of time in which to vet new renters before being subject to the binding TPO rules that the City Council has imposed on rental property owners.
2. The most vulnerable population affected by the continued quest for affordable housing in San José, are children. From the perspective of addressing the effects of inadequate housing

on this vulnerable population, we urge our colleagues to consider formalizing overcrowding definitions and abiding by the overcrowding definition set by HUD.

- a. Per the United States Department of Housing and Urban Development, an overcrowded unit is defined as two (2) people per bedroom (2PPB) plus one (1). This definition provides balance between affordability and the basic quality of life a person should expect from their dwelling space. The U.S. Department of Health and Human Services has stated that for 10% of children who were placed into foster care in the U.S. in 2015, inadequate housing was the reason associated with the child's removal. Inadequate housing includes overcrowding. According to the National Health Institute *"The degree to which children grow up in crowded housing is a neglected but potentially important aspect of social inequality. Poor living conditions can serve as a mechanism of social stratification, affecting children's wellbeing and resulting in the intergenerational transmission of social inequality."*
- b. In defining which members of a household the City should include in the final unit tenant count as any member over the age of six years (6 years) the City is promoting healthier affordable housing. Age six (6) was chosen as the age of inclusion for the total number of persons in the unit because, according to the CDC, at age six (6) a child has reached what is officially recognized as school age. Many studies have been conducted and have concluded that success in school depends greatly on the environment a child is living in. Overcrowded conditions at home are known to cause serious hindrance to a child's ability to thrive in school.