

This form is provided to Landlords free of charge by

**The Law Offices of Todd Rothbard**

100 Saratoga Ave., Suite 200

Santa Clara, CA 95051

Phone: (408) 244-4200

Email: [office@toddrothbardlaw.com](mailto:office@toddrothbardlaw.com)

Please email us and we will send you instructions on filling out and serving this notice, and will answer any other questions you may have.

**PRE-NOTICE OF RENT DELINQUENCY AND  
NOTIFICATION TO LANDLORD OF COVERED REASON  
FOR DELAYED PAYMENT AS A RESULT OF COVID-19**

On March 16, 2020, Governor Gavin Newsome Issued Executive N-28-20, that authorized local governments to limit a Landlord’s ability to evict a tenant between the date of the Order and May 31, 2020. On March 17, 2020, the City of Berkeley adopted the COVID-19 Emergency Response Ordinance, Berkeley Municipal Code Chapter 13.110 (the “Ordinance”), which was effective immediately, and through the Expiration of the City’s State of Emergency. The Ordinance prohibits evictions where a tenant is unable to pay rent due to “Covered Reason for Delayed Payment.”

The Ordinance Defines “Covered Reason for Delayed Payment” means a situation where

- (1) the basis for an eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand); or substantial out-of-pocket medical expenses; and
- (2) the decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (i) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.

In order to be protected by the Ordinance, a Tenant must notify the Landlord that their inability to pay qualifies as a Covered Reason for Delayed Payment and provide documentation.

This Notice is intended to serve as Landlord’s “Pre-Notice of Rent Delinquency” as required by B.M.C. § 13.110.020.

You are delinquent in rent in the amount of \$\_\_\_\_\_

Within three days, excluding weekends and holidays, you are required to provide Landlord with a notice and documentation of a basis for an inability to pay rent under as provided by the Ordinance, if you have such basis.

Notice and Documentation should be Provided to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

By Mail       In person, between the hours of \_\_\_\_ and \_\_\_\_\_, on the days \_\_\_\_ to \_\_\_\_

You may provide the required Notice and Documentation by using the below form.

You may use this form to notify your landlord that you intend to seek the protection of the Ordinance by providing the required Notice and Documentation.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

I intend to seek protection against eviction for nonpayment of rent under C the COVID-19 Emergency Response Ordinance, Berkeley Municipal Code Chapter 13.110 (the "Ordinance").

I owe rent for \_\_\_\_\_ (month), 2020, in the amount due of \$\_\_\_\_\_.

I am able to pay \$\_\_\_\_\_. I am not able to pay the remaining amount due of \$\_\_\_\_\_.

I have suffered a substantial decrease in household or business income resulting from the COVID-19 pandemic for the following reason: (you must check at least one)

- I am sick with COVID-19, or caring for a household or family member who is sick with COVID-19
- I have been laid-off, lost working hours, lost business income, or suffered other income reduction resulting from COVID-19 or the federal, state or local government response to COVID-19
- I have incurred substantial out-of-pocket medical costs related to COVID-19; or
- I suffered another substantial decrease in income caused directly by COVID-19 or the governmental response to the COVID-19 pandemic. Explain \_\_\_\_\_

**Documentation.** In addition to notifying your Landlord of your inability to pay, you are required to provide documents to support the claims you made above, and that they are caused by the COVID-19 pandemic

I have attached the following documentation of the substantial decrease in income I have experienced due to COVID-19:

- Letter from employer citing COVID-19 as a reason for reduced work hours or termination.
- Paycheck stubs from before and after the COVID-19 outbreak
- Bank statements from before and after the COVID-19 outbreak showing a reduction in income
- Receipts for increased out of pocket medical expenses, due to COVID-19
- Other proof of substantial loss of income related to COVID-19
- Other: \_\_\_\_\_

Tenant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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Emergency. The Ordinance prohibits evictions where a tenant is unable to pay rent due to “Covered Reason for Delayed Payment.”

You were previously served with a “Pre-Notice” of Rent Delinquency, as required by B.M.C. § 13.110.020 on \_\_\_\_\_ (date), wherein you were directed to Notify your Landlord if your non-payment results from a “Covered Reason for Delayed Payment” as defined by the Ordinance, and submit documentation thereof. Within three days after service of said Pre-Notice upon you, excluding weekends and judicial holidays, you failed to submit said notice and documentation.

In order to be protected by the Ordinance you should, prior to the expiration of this Notice, notify your Landlord that your inability to pay qualifies as a Covered Reason for Delayed Payment and provide documentation. You may notify your Landlord of your intention to assert this defense by filling out and returning the attached form.

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Name:  
Owner/ Agent for Landlord

Attachment 2: Notice Of Rent Delinquency And Notification To Landlord Of Covered Reason For Delayed Payment As A Result Of Covid-19  
Attachment 1: Notice of Tenant’s Right

CC: City of Berkeley Housing and Community Services Department

**THIS NOTICE SUPERSEDES ALL PREVIOUSLY SERVED NOTICES TO PAY OR QUIT**

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Bank statements from before and after the COVID-19 outbreak showing a reduction in income

Receipts for increased out of pocket medical expenses, due to COVID-19

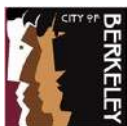
Other proof of substantial loss of income related to COVID-19

Other: \_\_\_\_\_

Tenant Signature: \_\_\_\_\_

Date: \_\_\_\_\_





## Notice of Tenant Protection Ordinance

In March 2017, the City Council adopted the Tenant Protection Ordinance, to prohibit illegal evictions through the use of fraudulent and/or misleading representations, intimidating conduct, and coercive conduct.

Among other things, the Tenant Protection Ordinance prohibits conduct that may coerce a tenant to vacate a rental unit involuntarily. The following is only a summary of the illegal conduct; for a complete list, you are advised to review the attached copy of the Tenant Protection Ordinance, or review Berkeley Municipal Code 13.79.060.

Landlords must not, in bad faith, engage in any of the following conduct:

- Lies, threats, or use of violence to induce a Tenant to move.
- Threats regarding immigration status.
- Disruption of services to the rental unit.
- Interference with the right of privacy, including inquiries about immigration status.
- Abuse of the right of access to the rental unit.
- Exploitation of disabilities or other traits of the Tenant.
- Failure to perform and complete repairs in a timely and professional manner.
- Threats not to perform repairs and maintenance.
- Failure to accept or acknowledge receipt of a Tenant's rent, or to promptly deposit the rent, or to refuse to provide a receipt.
- Violations of the Tenant Buyout Ordinance (B.M.C.13.79.050)
- Engagement of any Tenant in any form of human trafficking as a condition of that Tenant's continued occupancy of a Rental Unit.

**Note: A tenant aggrieved by violations of the Tenant Protection Ordinance may bring a civil action in court against the landlord. Violators may be held liable for damages (including emotional distress, and an additional penalty of up to \$5,000 for each violation against any person who is disabled or age sixty-five or over), court costs, and attorney's fees. For violations related to repairs, Tenants must first provide fifteen days' notice of the violations (see B.M.C. 13.79.060.E.2).**

**The City, or the Rent Board at the City's behest, may also file a civil action to enforce the Tenant Protection Ordinance.**

If you are experiencing any of the conduct detailed above, you may contact the Rent Board for more information, at (510) 981-7368 or [rent@cityofberkeley.info](mailto:rent@cityofberkeley.info).

*This disclosure notice is required to be provided at the inception of any tenancy beginning after April 2017, and must be included with any eviction notice. Failure to include this notice is a defense to unlawful detainer (eviction).*

2125 Milvia Street, Berkeley, California 94704  
TEL: (510) 981-7368 (981-RENT) TDD: (510)981-6903 FAX:(510)981-4910  
E-MAIL: [rent@cityofberkeley.info](mailto:rent@cityofberkeley.info) INTERNET: [www.cityofberkeley.info/rent](http://www.cityofberkeley.info/rent)

## DECLARATION OF SERVICE OF NOTICE TO RESIDENT

I, the undersigned declare that at the time of service of the papers herein referred to, I was at least eighteen (18) years of age, and that I served the following notice:

Three Day Notice to Pay Rent or Quit

On the following resident(s): \_\_\_\_\_,  
and all tenants in possession

on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

BY DELIVERING a copy for each of the above-named resident(s) PERSONALLY

**OR**

BY LEAVING a copy for each of the above-named resident(s) with a person of suitable age and discretion at the residence or usual place of business of the resident(s), said resident(s) being absent thereof;

AND MAILING by first class mail on said date a copy to each resident(s) by depositing said copies in the United States Mail, in a sealed envelope, with postage fully prepaid, addressed to the above-named resident(s) at their place of residence.

**OR**

BY POSTING a copy for each of the above-named resident(s) in a conspicuous place on the property therein described there being no person of suitable age or discretion to be found at the residence or any known usual place of business of said resident(s);

AND MAILING by first class mail on said date a copy to each resident(s) by depositing said copies in the United States Mail, in a sealed envelope, with postage fully prepaid, addressed to the above-named resident(s) at their place of residence.

I also served the same notice on the City of Berkeley Housing and Community Services, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, as follows:

BY MAILING by first class mail on said date a copy to the City by depositing said copies in the United States Mail, in a sealed envelope, with postage fully prepaid, addressed to  
**Housing and Community Services Department, 2180 Milvia Street, 2nd Floor, Berkeley, CA 94704**

I declare, under penalty of perjury, that the foregoing is true and correct and if called as a witness to testify thereto, I could do so competently.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ California.

\_\_\_\_\_  
Declarant Name: