



Building Energy, Equity & Power
SF Tenant Protections in Building Decarbonization

What is building decarbonization? And how could tenants benefit?

Building decarbonization refers to the upgrades or construction measures to lower greenhouse gas emissions that come from buildings. For example, installing rooftop solar PV or an electric stove can be considered building decarbonization. Beyond the environmental benefits of lowered greenhouse gas emissions, building decarbonization can also offer several benefits to tenants – if done equitably and paired with energy efficiency, weatherization, climate resilience, and home safety and health measures. These benefits include lowered energy costs, improved indoor air quality and health outcomes, resilience against worsening impacts of climate change, and greater home health, comfort, and safety.

What about the risks to tenants?

Most low-income residents in California are renters, over half of whom are rent burdened, meaning they spend more than 30 percent of household income on rent and utilities each month. Due to a legacy of racially-restrictive housing covenants, discriminatory lending practices, and redlining, renters of color are more likely to experience disproportionate housing insecurity, struggle to afford rent and utility bills, and face higher eviction risks. They are also at most risk of displacement if building decarbonization policies are not designed and implemented equitably and holistically.

Key tenant concerns include significant risk of evictions or rent increases due to decarbonization and any energy-related efforts; lack of education and enforcement around tenant rights; increased risk of landlord harassment to force tenants out during renovations and move in higher-income tenants; lack of financial resources to engage in building decarbonization efforts; and lack of access to engage without landlord cooperation.

Are there ways tenants can safely engage in and benefit from building decarbonization without increased risk of displacement?

BEEP has explored this question with community members through its regional listening sessions, of which recommendations can be found in the [preliminary report](#). The table below lists existing examples of tenant protections in San Francisco that may help minimize harm and maximize benefits of building decarbonization for SF tenants.

POLICY	EXAMPLES
Tenant Rights	
<p><u>Rent Control</u></p> <p>Rent control laws and policies limit how much landlords can increase rent in a given period of</p>	<p>San Francisco Rent Ordinance limits rent increases by a set amount each year based on inflation. Landlords can petition for approval to the San Francisco Rent Board (which administers</p>



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<p>time.</p> <p><i>Existing law in SF:</i> San Francisco Rent Ordinance</p>	<p>the ordinance) for other rent increases, e.g. capital improvements pass-through. Tenants can also petition to the Rent Board for rent decreases if the landlord has failed to provide agreed upon or legally required services, e.g. parking and safe living conditions.¹</p> <p>Major exemptions apply (e.g. single family homes), and exempted units may instead have coverage under state law AB 1482.²</p>
<p><u>Just Cause</u></p> <p>Landlords cannot evict a tenant who has lived in the unit for a period of time without a valid reason, or ‘just cause.’</p> <p><i>Existing law in SF:</i> San Francisco Rent Ordinance</p>	<p>The Rent Ordinance establishes “just” causes for eviction of tenants in residential units covered by the ordinance. These include nonpayment of rent, illegal use of unit, violations of rental agreement, and more can be found here.</p>
<p><u>Relocation Fees/Right to Return</u></p> <p>When the rental property and/or unit is undergoing construction that would make the unit inhabitable, landlords would be required to provide relocation fees to tenants to temporarily (or permanently) live in a comparable place.</p> <p>Less commonly seen is the Right to Return. Tenants who are displaced for redevelopment or renovation are given the option to move back into the new building once it’s completed in a comparable or better quality unit at the same or similar rent. Landlords may also be required to cover rent increases incurred during the construction phase.³</p> <p><i>Existing law in SF:</i> San Francisco Rent Ordinance</p>	<p>The Rent Ordinance requires relocation fees for “no-fault” causes, e.g. capital improvements, demolition, Ellis Act owner move-in, or substantial rehabilitation.⁴ In the case of temporary relocation due to capital improvements, tenants must be given proper notice, copy of permits, and relocation fees with the right to return at the same rent and lease agreement after construction work has been completed.⁵</p>
<p><u>Right to Counsel</u></p> <p>When facing eviction cases, tenants most often do not have legal support compared to landlords and property management companies. Due to this power imbalance, Right to Counsel provides tenants facing eviction with pro bono legal support.</p>	<p>The No Eviction Without Representation Act guarantees all eligible residential tenants who are facing eviction have a right to free legal representation. The City of San Francisco is funding several nonprofits to provide these services under the Tenant Right to Counsel program (TRC).⁶</p>



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<p><i>Existing law in SF:</i> No Eviction Without Representation Act</p>	
<p><u>Right to Organize</u></p> <p>This law requires landlords to recognize the right of tenants to organize.</p> <p><i>Existing law in SF:</i> Right-To-Organize Ordinance</p>	<p>The Right-To-Organize Ordinance (2021) requires landlords to recognize this right of tenants in buildings with at least 5 units. It also requires landlords or representatives to meet with tenant unions up to 4 times a year and negotiate with the unions in “good faith.” If landlords fail to comply, tenants may file for rent reduction with the city’s rent board.⁷</p>
<p><u>Anti-Harassment Policy</u></p> <p>Landlords can often use harassment tactics to force tenants to “voluntarily” leave due to intimidation and uninhabitability of their unit. Through these tactics, landlords can bypass state and local laws regarding tenant protections (e.g. just cause), renovate their units, and raise rent for the next, more higher-income tenant. Anti-harassment policies would prohibit and prevent landlords from harassing tenants into forced voluntary displacement.</p> <p><i>Existing law in SF:</i> Tenant Harassment Ordinance</p>	<p>The San Francisco Tenant Harassment Ordinance covers tenants and subtenants in all rental residential units except for rooms in dormitories, hospitals, motels, inns, nonprofit-owned cooperatives, and more. If a landlord violates this ordinance, tenants may consider a Decrease in Services Petition at the Rent Board to lower rent, a Small Claims Court action, or consulting with an attorney about taking any other kind of legal action.⁸</p>
<p><u>Warranty of Habitability</u></p> <p>Landlords are legally held to ensure the rental unit is fit to live in, or habitable. It is also their duty to fix any problems that may make the unit uninhabitable.</p> <p><i>Existing state law:</i> Green v. Superior Court</p>	<p>In California, all rental agreements and leases have an implied warranty of habitability, meaning landlords are responsible for ensuring rental units are habitable for their tenants and making any repairs for damages that would impact habitability.⁹ SF tenants can apply for Decrease in Services Petition if their landlord has failed to abate code violations.</p> <p>However, California law only includes a minimum indoor temperature of 70 degrees Fahrenheit during cold weather. It does not include a maximum indoor temperature restriction during hot weather.</p>



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<p><u>Repair & Deduct</u></p> <p>If a landlord fails to fix serious defects that impact the unit’s habitability, the tenant can repair the defects at their own cost and subtract it from the following month’s rent.</p> <p><i>Existing state law:</i> California Civil Code 1942, 1942.5</p>	<p>To use the Repair & Deduct law in California, certain conditions apply, e.g. the repair costs cannot be more than one month’s rent; this law cannot be used more than twice in a 12-month period; and the issue at hand cannot be something caused by the tenant.¹⁰</p> <p>Important to note that this law comes with the risk of landlord retaliation, which may increase risk of tenant displacement.</p>
<p><u>Renovation Harm Reduction</u></p> <p>Landlords can use major renovations (i.e. capital improvement) as a way to displace tenants by physically displacing tenants during construction to worse living conditions or raising rent through cost recovery programs.</p> <p>State and local tenant protection policies for renovation harm reduction includes requiring robust construction permits with tenant impact assessments and limiting how much landlords can pass renovation costs through rent increases.</p> <p><i>Existing law in SF:</i> San Francisco Rent Ordinance</p>	<p>Under the Rent Ordinance, capital improvement pass-throughs to the tenant are limited at a maximum increase of 10% or at a maximum increase of 7% for operating and maintenance costs. These rent increases must be first approved by the rent board. Tenants can request an exemption if found eligible for the Tenant Financial Hardship Application¹¹.</p>
<p>Program Incentives + Compliance Mechanisms</p>	
<p><u>Landlord Incentives</u></p> <p>Incentives can be used to engage building owners and landlords to engage in building decarbonization, energy efficiency, and weatherization efforts while also ensuring rent does not increase and existing tenants are not displaced.</p>	<p>California’s Solar on Multifamily Affordable Housing (SOMAH) offers eligible building owners up to 100% funding for solar PV installations. In return, participating building owners must sign two legally-binding documents: (1) Affidavit Ensuring 100% Tenant Economic Benefit, which guarantees rent will not increase and cost savings will be received through solar, and (2) Affidavit Ensuring Tenant Education, which requires building owners to provide tenants with SOMAH-approved education.¹²</p> <p>California’s Low Income Weatherization Program offers free technical assistance and incentives for</p>



	<p>energy efficiency measures and solar PV to building owners, who must sign a covenant agreeing to maintain rent affordability to low-income occupants for at least 10 years following the energy efficiency and weatherization improvements.¹³</p>
<p><u>Code Enforcement</u></p> <p>Code enforcement may be a tool tenants can use to ensure landlords are complying with building and housing code regulations.¹⁴</p> <p>Three main types of enforcement:</p> <ol style="list-style-type: none"> 1) Administrative – occurs within local government 2) Civil – occurs through the court system 3) Criminal – occurs through the justice system 	<p>Tenants experiencing unabated code violations may directly (and anonymously) report the violation to the Department of Building Inspection, which would send an inspector within 72 hours of reporting, open a case if there is a violation, and require corrective actions by a given period of time. If landlords fail to resolve the issue, they may be hit with abatement fees and liens on their property.¹⁵ Alternatively, tenants can also find support from partnered tenant non-profits through the City’s Code Enforcement Outreach Program.</p>

Additional San Francisco-based Tenant Resources

Below are San Francisco-based nonprofits where you can find more information and resources about tenant rights and protections. You may also find access to free legal aid as well as information in major non-English languages spoken in SF.

- [Housing Rights Committee](#)
- [Tenants Together](#)
- [San Francisco Tenants Union](#)
- [Causa Justa :: Just Cause](#)
- [Eviction Defense Collaborative](#)
- [Legal Assistance for the Elderly](#)
- [Housing Rights Committee of San Francisco](#)
- [Tenderloin Housing Clinic](#)



Endnotes

1. [Rent Control](#) – San Francisco Tenant Union
2. [SF vs. CA Exemptions to Rent Control and Just Cause](#) – San Francisco Tenant Union
3. [Eviction Protections and Mitigations](#) – UCLA Lewis Center for Regional Policy Studies
4. [Just Causes](#) – San Francisco Tenant Union
5. [Relocation Payments](#) – San Francisco Rent Board
6. [Tenant Right to Counsel](#) – Eviction Defense
7. [Right-To-Organize Ordinance](#) – San Francisco Legistar
8. [San Francisco Rent Ordinance § 37.10B: The San Francisco Tenant Harassment Ordinance](#) – Astanehe Law
9. [California Tenants Guide](#) – California Department of Real Estate
10. [California Tenant Rights to Withhold Rent or “Repair and Deduct”](#) – Nolo
11. [Capital Improvements Petitions General Information](#) – San Francisco Rent Board
12. [San Joaquin Valley Pilots: Tenant Protections and SOMAH Case Study](#) – GRID Alternatives
13. [Low-Income Weatherization Program Factsheet](#) – California Department of Community Services and Development
14. [Up To Code](#) – ChangeLab Solutions
15. [Fix Your Building and Housing Code Violation](#) – SF.gov