

*This blog post was co-authored with Dave Owen, at UC Law SF. The draft article this blog post series is based is [here](#).*

This is the fifth in a series of blog posts on our proposal to reform wildfire law in the United States. The first post is [here](#). The second post is [here](#). The third post is [here](#). The fourth post is [here](#).

Any successful effort to address fire in the United States must address land-use. Development in the wildland-urban interface (WUI), where urban and suburban areas intersect with wildfire risk areas, has grown consistently over the past several decades, and shows little sign of abating. And the recent catastrophic fires in Los Angeles, Spokane, and elsewhere emphasize that fire risks are now urban risks as well, as fires cross the border from forests into cities.

A core component of any solution must be requiring new and existing construction to be more defensible to fire – both in terms of how it is built, and in terms of the area around the building (what is often called defensible space). There are difficult choices to be made here about the costs of mandating retrofitted upgrades to existing buildings, whether to provide support for homeowners to do retrofits, and the ability to enforce defensible space rules.

But just as important is changing where and how development occurs across the landscape. Dispersed development in the WUI makes it harder for firefighters to protect people and structures. It also reduces the large continuous areas needed to allow restoration of low-intensity fire, such as through prescribed burns, which are important long-term for reducing the risks of catastrophic fire. Multiple principles can help guide the approaches to take here: contiguous development is better than leapfrog; avoiding high-risk terrain (such as steep slopes) is better; ensuring adequate evacuation routes is better; and buffers or firebreaks around development are better.

Finally, officials will have to make difficult decisions about whether to require separation between structures or encourage denser, more contiguous development. The latter approach saves land, making housing less costly, and can achieve other environmental goals – but if fires cross from the WUI into urban areas and become urban conflagrations (as in Los Angeles in 2025) the consequences can be dire. Such developments must emphasize strict building codes and defensible space rules, as well as emphasize firebreaks or other methods to reduce the risk of fire entry into new neighborhoods. The former approach reduces structure-to-

structure fire risks, but the costs of affordability and increased perimeters to defend.

Figuring out how to address these questions will inevitably draw upon localized knowledge and involve some local discretion. And top-down federal or even state mandates are unlikely to be appreciated. Those basic realities explain why so much decision-making about land use and fire has been left in local hands. But another basic reality is that the status quo isn't working. Delicate though the task may be, we see a need for stronger carrots and sticks from the federal government, with the goal of leaving some local discretion but also creating real benefits for localities that take concrete steps to integrate wildfire preparedness into their land use planning and real consequences for those that do not.

We thus propose a deal. States and local governments that produce to address fire risks get two benefits. One, as noted above, they would get better treatment for wildfire pollution under the Clean Air Act. Two, they would be eligible for federal support for fire insurance. We turn to that in the next blog post.