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As you'll see from the sample codes, there are some jurisdictions that still regulate hedges, but most have moved away from private property hedge regulations likely due in part to the lack of governmental purpose in such regulations and the challenges of enforcement – it can be difficult to gain access to the backyards of private properties where these hedges exist.

In contrast, there is good public policy to support a hedge code that addresses right-of-way hedge concerns. In a 2016 Washington State Supreme Court decision, the court held that a municipality can be held liable for hazardous conditions on its roads created by sight-obstructing roadside vegetation. *Wurthrich v. King County*. The court noted that whether a condition is inherently dangerous does not depend on whether the condition "exists in the roadway itself." This means requiring property owners to maintain hedges that adjacent to the ROW to ensure a clear line of site on the roadway.

With this background context, there are few different ways to proceed with revising the YPMC:

1. Eliminate the private property component of the hedge code and create regulations for hedges adjacent to the ROW. This follows sound public policy and can be clearly enforced.
2. Retain and revise the private property component of the hedge code, and develop regulations for hedges adjacent to the ROW but have different enforcement mechanisms for each hedge category. Since Mr. Wilcox has noted the challenges of enforcing hedges between private properties and the fact that most times, the parties agree to higher height than the code allows for, staff is recommending that the parties submitting the complaint go to mediation rather than have Town staff be involved. This reduces staff time, ensures there is a neutral third party available to resolve the matter, and allows for flexible resolutions. One option for a mediation resource is Resolution Washington <https://www.resolutionwa.org/>. The City of Medina has taken this approach for their view and sunlight ordinance. See attached example.
3. In conjunction with the options above, consider creation of a permitted plant species list (or alternatively, a prohibited plant species list) that regulates what kind plants can be used as hedges. This could assist with enforcement if only certain plants of certain heights were allowed to be planted as hedges.

### **Recommended Action:**

Discuss options.

































