



# TOWN OF ERIE

645 Holbrook Street  
Erie, CO 80516

## Town Council

**Board Meeting Date: 6/22/2021**

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**File #: 21-253, Version: 1**

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**SUBJECT:**

An Ordinance of the Board of Trustees of the Town of Erie Revising Section 6-6-4.A. of the Erie Municipal Code, Entitled "Damage to Property," and Section 1-4-3.D. of the Erie Municipal Code, entitled "Alternatives in Sentencing," and Amending Chapter 10 of Chapter 6 of the Erie Municipal Code by the Addition of a New Section 6-10-17, entitled "Open Marijuana Container"

**DEPARTMENT:** Legislative

**PRESENTER:** Town Prosecutor, Kristin N. Brown

**STAFF RECOMMENDATION:**

**Approve the ordinance.**

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

The attached ordinance modifies two existing provisions of the Erie Municipal Code, and enacts a new section.

First, EMC 6-6-4.A., "Criminal mischief," is amended to mirror the state statute (CRS 18-4-501).

EMC Sec. 1-4-3, "Alternatives in sentencing" is amended, specifically paragraph D, related to restitution. The revised language mirrors state statute (CRS 18-1.3-603).

Finally, EMC 6-10-17, "Open marijuana container," is consistent with CRS 42-4-1305.5. When an officer makes contact with a driver for a traffic violation and observes a violation of the state open marijuana container provisions, both charges have to be filed into the county court because there is no local code provision on point (double jeopardy prohibits the splitting of charges when multiple charges arise out of one incident). If these provisions are enacted locally, the charges can be filed into the Erie Municipal Court. If the Board decides not to enact these provisions, pursuant to the state statutory language, the violation will still exist and will be charged into county court.

**Board Priority(s) Addressed:**

- ✓ Safe and Healthy Community
- ✓ Effective Governance

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**ATTACHMENTS:**

1. Ordinance 17-2021