Municipal Technical Advisory Service
INSTITUTE FOR PUBLIC SERVICE

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On April 22, 2019, the United States Court of Appeals for the Sixth Circuit issued an opinion that impacts municipalities in Tennessee. In the opinion, *Taylor v. City of Saginaw, et al.*, No. 17-2126, 2019 WL 1757953 (6th Cir. April 22, 2019) the court opined that the practice of marking tires with chalk, in order to monitor how long a vehicle is parked in a parking space for the purpose of enforcing parking restrictions, is an unreasonable search in violation of the Fourth Amendment of the United States Constitution. When analyzing whether the act of chalking constituted a search, the court relied upon the holding in *United States V. Jones*, 565 U.S. 400 (2012) and wrote:

> In recent years, however, the Supreme Court revisited the seldom used "property-based" approach to the Fourth Amendment search inquiry in *United States v. Jones*, 565 U.S. 400 (2012). Under *Jones*, when governmental invasions are accompanied by physical intrusions, a search occurs when the government: (1) trespasses upon a constitutionally protected area, (2) to obtain information. *Id*. at 404–405.

Id. at *2

The court concluded that a search occurred when the chalk used by the parking enforcement official came in contact with the automobile owner's tires for the purpose of determining how long the automobile was parked in a specific location. *Id*. at *3. Additionally, because the city was unable to articulate to the court an applicable exception to the warrant requirement for this type of search, the court held that the search was unreasonable and therefore violated the Fourth Amendment. *Id*. at *4.

If you are in a city that currently chalks tires for purposes of parking enforcement, we suggest that you confer with your city attorney as soon as possible to determine how the city is going to enforce parking from this point forward. MTAS recommends cities explore the use of parking meters or parking ticket kiosks.

The opinion can be found here and the PDF is in MTAS Knowledgebase.