



App. 147a, 148a, 153a.

Gilbert's Code also regulates a sign's duration based on content. Consider, for example, the Code's application to four Saturday events that begin at 8:00 a.m., each lasting 12 hours: (1) a polling station open for an election with a primary, (2) a weekend real estate sale, (3) a HOA's community festival, and (4) a religious event hosted by a nonprofit organization (such as Petitioners' church). The chart below illustrates how long each sign could be displayed under the Code's content-based approach:

**DURATION**

<b>Display Time Before</b>	<b>Event</b>	<b>Display Time After</b>
← 4 ½ Months	<b>Election</b>	15 Days →
← 30 Days	<b>HOA Event</b>	→ 48 hrs
16 hrs ←	<b>Real Estate Sale</b>	→ 36 hrs
12 hrs ←	<b>Petitioners' Qualifying Event</b>	→ 1 hr

App. 149a, 151a, 153a, 156a, 158a.<sup>1</sup> Moreover, an ideological sign expressing an individual's views about any of the above events could be displayed indefinitely. App. 148a.

The Code also regulates number, location, permit requirements, and whether a sign must relate to a Gilbert event based on a sign's content, as the following table sets out:

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<sup>1</sup> Under the Code, candidates who prevail in a primary may display their signs for *the additional ten weeks* between the primary and general elections. App. 156a; Ariz. Rev. Stat. § 16-201 (providing that primary elections occur ten weeks prior to general elections). Moreover, under Arizona law, elections may occur on the second Tuesday in March, the third Tuesday in May, the tenth Tuesday before the first Tuesday after the first Monday in November (primary elections), and the first Tuesday after the first Monday in November. A.R.S. § 16-204(B), (E), & (F). With four election days spread out evenly over a year, and the generous duration the Code provides Political Signs, such signs are permitted to be on display every day of the year in Gilbert.

<b>Sign Type</b>	<b>Number</b>	<b>Right-of-Way</b>	<b>Permit</b>
Political	Unlimited	Yes	No
Ideological	Unlimited	Yes	No
Qualifying Event	4 per property, only if the event occurs within the Town.	Yes, only if the event occurs within the Town.	No
HOA	As many as desired, up to 80 sq. ft. aggregate.	Yes	Yes
Real Estate	15	Yes	Yes

App. 145a-148a, 150a, 152a, 153a, 157a.

Gilbert has classified Petitioners' signs promoting their church services as temporary, Qualifying Event Signs and applied §4.402P of the Sign Code. App. 117a. Under this provision, Petitioners' signs receive far worse treatment in relation to size, duration, location, and other characteristics than similar temporary signs, including political, ideological, HOA and real estate signs, as demonstrated above.

The content-based features of the Sign Code do not end there. It exempts over twenty categories of signs from its permit requirement. App. 6a & n.1, 144a-147a. Many of these exemptions describe the exempted signs based on content. *Id.*

The Code further treats some commercial speech better than noncommercial speech by granting signs advertising weekend home sales significantly more leeway than the Qualifying Event Signs of certain

nonprofit organizations.<sup>2</sup> For example, Gilbert allows sellers of real estate to fill out a one-page form, pay a nominal fee, and obtain a year-long, easily-renewable, rubber-stamp permit to place fifteen signs, in rights-of-way, promoting home sale events every weekend of the year from Friday at 4:00 p.m. until Monday at 8:00 a.m. ER 328 (permit application); ER 341 (specifying \$115 fee); App. 150a-152a, 158a. Petitioners testified that they would gladly do the same to receive more favorable treatment under the Sign Code than what the Qualifying Event Sign provision provides. ER 185-86 ¶ 48.<sup>3</sup>

## 2. Petitioners' Signs Inviting People to their Church Services.

Petitioner Clyde Reed is the Pastor of Good News Community Church. App. 54a. The Church is a group of like-minded Christians who have joined together to pursue common religious beliefs and purposes. ER 767 ¶ 14. The Church meets on Sundays to learn biblical lessons, sing religious songs, pray for their community, and encourage others whenever possible. *Id.* ¶ 15.

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<sup>2</sup> The Code does not treat all nonprofit speech the same. For example, political nonprofits posting signs about candidates or ballot issues receive far more favorable treatment under the Code's Political Signs provision than do Petitioners under the Qualifying Event Sign provision.

<sup>3</sup> Of course, to pass muster under the First Amendment, *all* temporary signs—political, ideological, etc.—would have to be regulated in the same manner.