

Napa Music Industry: Musicians As Vendors Is A Convenience For Others.

Commentary By Dalton J. Piercey 5-4-2024



It appears to me that for local musicians it is more convenient for us to be classified as vendors for that substantiates in form a lower caste or group where natural artistic rights and respectability are not acknowledge or provisioned..

There are a few issue's I find that are leaning to the side of a small injustice to the community of local musicians. I know and understand that a culture must exist and that culture must have balance. In all that establishes a foundation for the continued existence of that culture. With it's people and the products for that culture.

Studying Native American Studies at Sonoma State University I learned the constants and tenants of Cultural Regeneration. That is why I am focused in on our Local Music Culture here. Because we are a Gig Based economy for the pursuit of live performance of music and as the performers we are a microcosm of our community's culture. Much like a natural tribal system. My point being there are a few activities that affect our culture in sustaining a foundation for the existence and growth of Music as a Cultural Art.

Going forward in this commentary I am offering my experiences that at times I believe delivered a form of social discrimination that affected my pursuit of music as an art. Also following the pursuit as a music artist. In this way it can be understood that musicians as vendors is a convenience to others and not to us. Discovering what that means and involves I give my best for your insight.

In 1977 the City administration reconstructed legal requirements for the music venues in our community. A few changes that resulted in a lot of red tape and expensive changes to the operation of a business offering local music. By the late 80's the majority of venues that supplied stages for local music acts had vanished. This was the second obstructive movement by the City that affected the local music culture. By 1991 First Street from Soscol to School Street was a dead street and black at night. Past School the Police Department and Fire Department was the only attraction for a lighted street in downtown.

Considering the way that communication works for musicians through the years it's vehicle is the grapevine and the coconut wire. Musicians for years received news of changes in venue operation either by experience of notice at the venue or through downtown merchant operators. I believe this to be a social discrimination in form. For it is a convenience that benefits downtown business and City administration. When the venues were shutdown and musicians discovered the change, some musicians appeared at city council offering their thoughts.

Those speakers were marginally effective. Lacking thorough knowledge of what happened and why. Speaking not on point and then there was some obscenity offered as well. So here again we find that it is a convenience for musicians to be described as vendors in not bringing a professional discussion to the subject. Why the objectionable anger from the speakers at city council? It was their disappointment of being obstructed in the pursuit of their music art and having no knowledge of the decision made by others.

When I first began my pursuit of truth and justice in concern of the dance permit, the noise permit and the entertainment permit, I appeared at the planning department. And wanted to gain knowledge in these matters. I was obstructed and told that these documents were not available to me. Then when I returned and advised the planning department that the Brown Act allowed me as a citizen to ask for and look upon documents generated by a City Administration entity, I was then able to have a key to unlock the door. Then I asked for copies and was charged a dollar per copy. I later found out that it was ten cents per copy. Then when I complained about the dollar charge. I was told I would have to file under the freedom of the information act to obtain documents. It eventually worked out for me under the Brown Act with my continued complaining. But every time I appeared asking for specific documents I had one hundred questions thrown at me as to why I wanted them. Was that question asked because I was an active musician in the community or a citizen resident?

Here is a demonstration of my experience with the municipal codes in concern of noise.

The City Municipal Codes Title 8 and Title 9 came to be the next of my trouble as it was with many other musicians whom practiced on different nights through the week.

Municipal Title 8 with it's changes now falls under Noise-Commercial Activity.

Between the hours of 9:00 p.m. and 7:00 a.m., no commercial activity shall be conducted upon any privately owned real property within the city, which activity creates noise which can be heard at the property line of any parcel of real property within the city.

Then there is Municipal Title 9, Loud And Unruly Gatherings.

The purpose of this chapter is to deter the occurrence of loud and unruly gatherings, parties and other breaches of the peace. This chapter is intended to enhance the general peace, safety and welfare of the citizens of the City of Napa by reducing the deployment of Police Department personnel to loud and unruly gatherings. The commitment of law enforcement resources to such gatherings decreases preventive police presence and delays dispatch to other incidents requiring a police response.

"Loud and unruly gathering" means a gathering of a group of two or more persons on any public or private property in a manner which constitutes a substantial disturbance of the quiet enjoyment of public or private property in a significant segment of the surrounding neighborhood. Loud and unruly gatherings are frequently accompanied by the following types of conduct which may otherwise constitute a violation of local or State law: excessive generation of noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, fights, disturbances of the peace, or littering.

I lived out on El Centro right off Byway East. On my side of the street it was zoned county across the street it was zoned City. There was a home owner up on the City corner side that was a habitual complainer to 911 every time my band rehearsed. For the county the rule for sound is from 7 a.m. to 10 p.m. Across the street in the city it is 7 a.m. to 9 p.m. So the complainer would call 911 at 9:05 p.m. And the Napa Police would arrive citing a multiplicity of solutions based on their interpretation of the issue. And every time was different. Here is a summary of the attempted application of the legal language in my experience with law enforcement.

1. It is after 9 pm you have to stop, (my reply) I am in the county and can continue practicing until 10 pm. (time out here as they attempt to verify zoning). No your not in the county your in the City. The police officer replies. You will have to stop. Okay we call it a night.

2. Next practice same complainer. Police respond. This time I have County docs and City docs to substantiate that I am in the County. I am asked to stop practice, (my reply) No I am in the county I can continue until 10 p.m. The Police huddle then comeback with the response, your noise can be heard at the property line. Here they are applying city code Title 9. Insisting that I cease and desist or face a fine. We stop for the night.

3. Here we go again with practice. In the privacy of my home with minimal sound emission outside the building. Same complainer calls 911 exactly at 9:05 pm. But he is calling from the pay phone at the restaurant up the street on Byway East. Police respond, same legal definition (your noise can be

heard) applied by responding officers. I request a supervising Sergeant. The Sergeant arrives he is interviewing me. I offer my same explanation. The Sergeant walks up to the house where the complaint was made from and nobody’s home. I reiterate that I am in the county as he can look at the codes taped on my window. The Sergeant calls the Sheriff’s department and requests a deputy to the scene of the complaint. The deputy arrives and is asked the question, is this the counties jurisdiction? The deputy radio’s the Sheriffs Office asking for clarification. I and band are waiting. I offer coffee and donuts to the officers. Some enjoy the moment. Band and I work on vocal harmonies. The police and the deputy get a free country music moment. Sheriff’s Department replies after calling John Tutuer. Yes, is the reply we are in the county.

The police then bring up the title 9 language, *Loud and unruly gathering" means a gathering of a group of two or more persons on any public or private property in a manner which constitutes a substantial disturbance of the quiet enjoyment of public or private property in a significant segment of the surrounding neighborhood.* I offer back that this is also City code language and not applicable in the jurisdiction of the county and even so, I have five homes around me in which they enjoy the music in the evening. The Sergeant and the Deputy call it a night. With the Sergeant reminding me that I need to stop exactly at 10 p.m.

As I continue to practice and play music in my home the Police still received complaints and calls with confusion over code application and jurisdiction. The point I am reaching here is that local musicians are unclassified or not even classified in any category or identity in City and County administrative language. We are not acknowledged, except for now the nickname assigned to us, we are vendors. So given that circumstance there is no local definition of musicians and their rights. Other than a stab at the constitutional first amendment under happiness, joy and freedom for which title 9 significantly encumbers.

The profound truth is we are artist’s. Musical Artist’s. However not given this identity creates a barrier from consistently establishing a continuing Local Music Culture. Delivering traditional folk music that is defined in several ways: *as music transmitted orally, music with unknown composers, music that is played on traditional instruments, music about cultural or national identity, music that changes between generations (folk process), music associated with a people's folklore, or music.* It appears to me that for local musicians it is more convenient for us to be classified as vendors for that substantiates in form a lower caste or group where natural artistic rights and respectability are not acknowledge or provisioned. That is my view point in this matter.

<p>I believe my view to be true. For recently I have wanted to be apart of and continue to be apart of any activities in the city, downtown and county wide changes with decisions to the music based elements. For example, the expansion of the Entertainment District into the Oxbow. In that group they are as I have last heard discussing legal terms for decibels. Please let us not attempt to retread that tire?</p> <p>I am sure many can remember Zapata’s and the Police out at night in the Belair community walking around with decibel meters. I went out that night and it was a scene from a homicide investigation in operation. By contrast we have had years of the East Napa and Fair Grounds audio urban encroachment issue’s. But I offer that is a concern for which any direction you summarize a solution it is difficult for both sides of the issue.</p> <p>In my experience locally I was held out of sitting on the task force for the downtown specific plan. At one point I was given opportunity to voice from the professional musician experience. My professional organization opening up concerts in Veterans Park was barred from joining the Downtown Merchants Association. I recently was unfairly treated by Economic Development for the City Of Napa and the Planning Department. And now I hear this classification of Vendor. I suspect I am being kept out. Because I am viewed as a troublemaker. However it is convenient to keep me out. Because then there is no experienced voice from local music to offer information and positive solutions for all concerned including local musicians.</p> <p>What I offer here in my commentaries are from that experience. And that experience understands that when sound, venue and entertainment are in that circle of elements involved for changes in downtown business and City administration, I say that musician’s are stake holders too. For those elements are a part of our elements that contribute to music art, local music culture and the passion to follow the art of live music performance as a professional music artist.</p> <p>Musicians counting myself as one, we are minimized to that three minute comment at City Council. Right now in this commentary for which I am educating and informing the community I have typed 2,567 words. How can any individual give explanation to City officials of the complex issue of how these blind activities and actions being made by inexperienced and unknowledgeable personage’s are in support of our local music culture? But in turn causing affect with effect to local musicians. It can’t be given in three minutes. So essentially I am saying that it is a convenience in the hands of minimally experienced individuals making law and activity decisions for Music Entertainment in Napa and Napa County government. In having musicians represented as vendors we are left out of the loop.</p>	<p>And for music interest’s in downtown business they can operate in any form and manner towards Music Artist’s as they choose. However they too are on the frontline when circumstances arise in fostering changes to entertainment, sound, stage and venue. Though they are privileged to have the classification of stakeholder. There too we find inexperienced and unknowledgeable personage’s making decisions in concern of local music culture causing affect and effect to local musicians and our culture. As I have stated many times our local music culture is a Gig Based economy where we pursue contracting music events and obtaining compensation for the venture. So every opportunity to perform live music supports the positive cash flow to each and every musician working professionally. So every stage that is operating and available contributes and continues to help the security and foundation for a local music culture.</p> <p>I come forward now to speak plainly to our City officials asking that language be created to foster a Proclamation that supports our local music culture. And establishes our identity as Music Artists. Describing Music Artists whom are in a cultural classification in the same as we find with visual artists of palette, brush and paint. With classification of that nature we can claim ourselves as Music Artists and not vendors. So in turn we can be present in groups or organizations working to change those elements which affect changes to our professional artistic music culture and industry.</p> <p>Yet, in my experience it appears that my action to invoke the Brown Act or the question of Civil Rights has fallen on deaf ears. And resulting in much bearing and weight by not allowing me to be present to speak and participate. For it is a convenience to others with little effort and difficulty to just say to me that I am a vendor.</p> <p>Dalton</p>
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☐ Chapter 8.08 NOISE CONTROL REGULATIONS ☐ Chapter 9.50 LOUD AND UNRULY GATHERINGS

- ☐ § 8.08.010 Outdoor sound systems—Permit required.
- ☐ § 8.08.020 Noise—Commercial activity.
- ☐ § 8.08.025 Noise—Construction activity.
- ☐ § 8.08.030 Application for permit.
- ☐ § 8.08.040 Appeal of City Manager’s decision.
- ☐ § 8.08.050 Permit issuance, revocation.

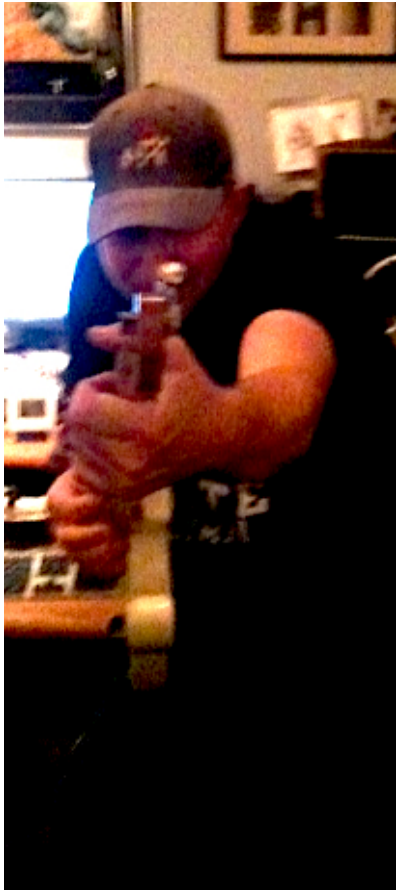
☐ Chapter 8.12 NUCLEAR-FREE ZONE

- ☐ § 8.12.010 Policy.
- ☐ § 8.12.020 Prohibition.
- ☐ § 8.12.030 Posting of signs.
- ☐ § 8.12.040 Penalty.

- ☐ § 9.50.010 Title.
- ☐ § 9.50.020 Purpose.
- ☐ § 9.50.030 Definitions.
- ☐ § 9.50.040 Loud and unruly gatherings prohibited.
- ☐ § 9.50.050 Notification.
- ☐ § 9.50.060 Administrative citations and appeals.
- ☐ § 9.50.070 Civil penalties.
- ☐ § 9.50.080 Recovery of police response costs.
- ☐ § 9.50.090 No criminal liability for violation.

☐ § 8.08.020 Noise—Commercial activity.

A. Between the hours of 9:00 p.m. and 7:00 a.m., no commercial activity shall be conducted upon any privately owned real property within the city, which activity creates noise which can be heard at the property line of any parcel of real property within the city which bears an RP, residential/professional office district, or more restrictive zoning designation, as provided in Title 17 of this code unless a permit shall first have been secured from the City Manager pursuant to Section 2.08.050 of this code. The City Manager shall grant such permit if it reasonably appears that: (1) the activity is otherwise permitted under this code; and (2) the benefit to be derived by the applicant from conducting such activity at the time and place specified in the application outweighs the detriment to be suffered by the neighborhood, by neighboring residents, and by the city generally. The collection of garbage and trash pursuant to Chapter 5.60 of this code is expressly exempt from the provisions of this section.



☐ § 9.50.020 Purpose.

The purpose of this chapter is to deter the occurrence of loud and unruly gatherings, parties and other breaches of the peace. This chapter is intended to enhance the general peace, safety and welfare of the citizens of the City of Napa by reducing the deployment of Police Department personnel to loud and unruly gatherings. The commitment of law enforcement resources to such gatherings decreases preventive police presence and delays dispatch to other incidents requiring a police response.
(O2011 8, 5/17/11)

☐ § 9.50.030 Definitions.

As used in this chapter:

“Loud and unruly gathering” means a gathering of a group of two or more persons on any public or private property in a manner which constitutes a substantial disturbance of the quiet enjoyment of public or private property in a significant segment of the surrounding neighborhood. Loud and unruly gatherings are frequently accompanied by the following types of conduct which may otherwise constitute a violation of local or State law: excessive generation of noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, fights, disturbances of the peace, or littering.

