

# MEAD IT AND WEEP

SMALL CRAFT BREWERS SAY THE CITY IS MAKING THEM PAY BIG-TIME REGULATORY COSTS.

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Brooks Cooper dreamed for more than a decade of ditching his law practice to make sparkling mead, an alcoholic beverage created by fermenting honey.

Last year, he and a friend took the plunge, founding Stung Fermented in a Northeast Portland warehouse along I-84.

Cooper has invested \$62,000 of his own money in the company, which he hopes will produce 2,000 barrels in its first year—a tiny amount even by the standards of craft breweries.

But it's one expense of \$3,735, a fraction of his startup capital, that has him feeling... well, stung.

**"IT'S EASIER TO GIVE THE BULLY YOUR LUNCH MONEY THAN GET BEATEN UP."**  
—BROOKS COOPER

That's the cost of a 3-foot-tall, stainless steel and concrete box that city sewer regulators are forcing Cooper to install.

The box, called a "wastewater inspection port," lets inspectors from the Bureau of Environmental Services measure how much organic material Stung Fermented is pouring into the city's wastewater system.

It's a requirement that's only supposed to apply to BES's large industrial customers. Cooper showed city officials calculations demonstrating he planned to dump far less water than what city code says triggers the requirement.

Their response? Install the port anyway, or forget about a city permit.

Cooper sees no choice but to pay.

"It's not worth jeopardizing my business for two years while I fight it in court," he says. "I'll knuckle under, like everybody

does. It's easier to give the bully your lunch money than get beaten up. And the city knows how over a barrel they have me."

Portland's craft brewing industry is booming, with at least 50 small breweries operating in the city. As the industry has expanded, so have brewers' complaints about what they call onerous city regulations on small businesses.

City code mandates charging extra fees to industrial sewer users—customers who dump large volumes of water, or flush water with a high concentration of organic materials, like grain or yeast.

Those materials cost the city more money to remove from its wastewater system—and if the cost isn't levied against the companies, it gets passed to all sewer ratepayers.

Portland's rules mandate that industrial companies, including breweries, install an inspection port so the city can measure how much organic material they're dumping—and charge fees for extra use.

Craft brewers, defined by federal law as those producing less than 2 million barrels a year, have not always had to install those devices on their sewer pipes. (One longtime Portland craft brewer, speaking on condition of anonymity, says he doesn't have one.)

But the city has been more active in requiring the ports in recent years.

"We're doing a better job of catching things," says Matthew Criblez, who oversees BES's environmental compliance division. "Sometimes businesses believe they're so small they don't need to install something. That's just not the way it works. These guys are discharging five to 25 times the organic material of single-family homes."

Joel Gregory, founder of Ex Novo Brewing in North Portland's Eliot neighborhood, says the port cost his business about \$5,000—4 percent of startup costs—when it opened last July.

"Far as I know, they haven't come out and inspected it yet," Gregory says. "Maybe they will at some point."

Cooper's case is unusual because he showed city officials his business was too small to trigger the city's rule. BES managers acknowledged they didn't know whether



**METERED MEAD:** Brooks Cooper says the city of Portland's permitting requirements for his mead-making company are an unfair burden. "I'm a progressive," he says, "and they're making me sound like Mitt Romney."

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he dumped enough wastewater to require charging additional fees using the device. Then they made him install it anyway.

Cooper says he also doesn't fall under city regulations because his concentrations of organic wastes are so low. The city disagrees—and says Cooper must prove otherwise.

Criblez says the city is requiring the ports in anticipation of the future.

"There's a lot of new facilities coming in," Criblez says. "And some of them are very small. But chances are, within a year or two, they're going to be larger. It's going to cost a lot more money to rip up their floor a year or two from now."

Cooper says that's ridiculous.

"To pre-regulate things I am not currently doing, because I might someday?" he says. "Apply that in the criminal context. Because you might commit a crime someday, we're going to imprison you now. Really?"

Cooper spent more than a month trying to prove to BES via email that Stung Fermented was below the threshold requiring the port.

He cited city code to show that his wastewater use—720 gallons a month—would be a tiny fraction of the 25,000 gallons a day that trigger city policing.

In a Dec. 16 email, Cooper argued that the organic-matter dump from washing

the mead tanks would be small, "comparable to the solid organic matter produced by a home or two."

But the city erased any doubt he'd have to spend the money for a port, even if the need for one was speculative.

On Dec. 18, Criblez wrote back, saying BES didn't know whether Stung Fermented would flush enough wastewater or organic material to require extra charges.

"Further, if your facility expands we will need to reassess the permit type and the extra strength charges, meaning that additional sampling would be necessary," Criblez wrote. "For these reasons, I am confirming that a sampling structure is required."

Criblez tells *WW* the city is requiring the port—and that Cooper faces the expense—so it can learn what Stung's exact discharge will be. "The whole idea of a sampling location is to charge them for what they're actually discharging," he says. "It's making Stung pay their fair share."

Cooper says he will install the sampling port next week. He hopes to have his mead tanks running by next month.

But he has a bad taste in his mouth.

"It's pretty clear to me that I am multiples below the minimum limits," Cooper says. "They simply won't listen to me. Would I use the word 'extortion'? Sure. I would." **WW**

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