

# Boiling Spring Lakes ABC Board

## Performance Audit Report



Alcoholic Beverage Control Commission  
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**ABC**  
COMMISSION  
NORTH CAROLINA

# TABLE OF CONTENTS

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ABC Commission Statement .....	3
Objective, Purpose & Background Information.....	4
Financial Analysis, Observations & Findings .....	6
Recommended Actions & Additional Considerations.....	11
Boiling Spring Lakes ABC Board Response .....	13



# ABC

COMMISSION  
NORTH CAROLINA

## Alcoholic Beverage Control

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February 17, 2022

Boiling Spring Lakes ABC Board  
Gene Fioravante, Chair  
3130 George II Hwy SE  
Southport, NC 28461

Chairman Fioravante,

On the following pages, you will find the performance audit report conducted by the staff of the ABC Commission reviewing the operations of the Boiling Spring Lakes ABC Board. The report consists of an overview of the objectives & background summary, financial analysis and findings, and a summary of actions recommended based upon your board's performance and related findings. Additional considerations are listed as well to provide further guidance and enhance awareness to promote ABC board success.

Please reach out if you have any questions or require assistance in implementing any of the statute requirements, Commission rules, or other recommendations included in the report. On behalf of the North Carolina ABC Commission, I thank you and your staff for your assistance and cooperation in conducting this periodic review. We appreciate the continued efforts by your board to comply with the performance standards, as well as the board's commitment to increase profitability and reduce expenses.

If we can be of assistance in the future, please do not hesitate to reach out to the Commission staff.

Respectfully,

Terrance Merriweather  
Deputy Commissioner

cc: North Carolina Association of ABC Boards

## **OBJECTIVE, PURPOSE & BACKGROUND INFORMATION**

In addition to regular and special financial audits, G.S. 18B-705(a) authorizes the NC ABC Commission to conduct performance audits of all local ABC boards in the state. Performance audits are examinations of existing operating policies, practices, controls, and activities to determine those areas in which there may be a need for improvement.

The audits are designed to ensure that all local ABC Boards comply with established performance standards pursuant to G.S. 18B-203(a)(20). The audit's scope addresses compliance with ABC laws and rules, store appearance, operating efficiency, solvency, and customer service.

To achieve the objectives of the audit, auditors:

- Review applicable General Statutes, ABC Commission Rules, and Administrative Policies
- Review applicable reports and studies of ABC Boards with similar size and geography
- Verify compliance with Commission and Board policies
- Verify results of previous performance audit recommendations
- Review ABC Board annual independent financial audits
- Review ABC Board reporting and documentation reports
- Visit the store(s)
- Interview key ABC Board personnel

Chapter 291 of the 1975 Session Laws authorized the Town of Boiling Spring Lakes to hold an election upon a petition of at least fifteen percent of registered voters. The referendum was held on September 13, 1975 and passed 109 to 31. The first sale occurred on February 2, 1981. Special legislation allows the board to sell mixed beverages. Upon election of an ABC store, the Town of Boiling Spring Lakes was authorized to create an ABC Board consisting of a chairman and two (2) members to serve for three-year terms.

The Boiling Spring Lakes ABC Board operates one (1) retail store. The board staffs one full-time general manager (GM) and one full-time assistant general manager. The general manager and assistant GM are responsible for overseeing and managing daily operations of the store including supervising personnel and financial management. The store clerks are primarily responsible for selling products to customers, store upkeep, and inventory management. Overall, the board employs two (2) full-time personnel and five (5) part-time personnel as of September 2021.

The Boiling Spring Lakes ABC Board had its last performance audit back in 2013. This follow-up round of performance audits serves as a continuous way for the Commission to provide local boards with information and best practices that target areas for improvement.



# OPERATIONAL OBSERVATIONS, FINDINGS, REQUIRED ACTIONS, & RECOMMENDATIONS

On Wednesday, September 15, 2021, ABC Board Auditor Quinn Woolard, visited the Boiling Spring Lakes ABC Board and interviewed Jaime Stevens, General Manager, Gary Christensen, Assistant General Manager, and Chairman Gene Fioravante. Below is a financial analysis followed by operation observations, findings, and recommendations related to the performance audit.

## FINANCIAL ANALYSIS

### PROFIT PERCENTAGE TO SALES & OPERATING COST RATIO

In fiscal year (FY) 2019-2020, the Boiling Spring Lakes Board had a profit percentage to sales of 4.12%. The NC ABC Commission profit to sales standards for ABC Boards with gross sales less than \$2M is 5%. The Boiling Spring Lakes ABC Board's gross sales totaled \$1,151,047, which was a 23.2% increase over FY 2018-2019.

The operating cost ratio for the Boiling Spring Lakes ABC Board was .82 in FY 2019-2020. The NC ABC Commission standard for ABC Boards with 1 or 2 stores and not having mixed beverage sales is .85 or less.

Thus, the Boiling Spring Lakes ABC Board did not meet the profitability standards yet did meet the operating cost standards set by the NC ABC Commission. Below is a chart showing gross profit on sales and income from operations for the previous two years.

	FY2019-2020	FY2018-2019
<b>Gross Profit on Sales</b>	\$309,414	\$227,499
<b>Income from Operations</b>	\$47,480	\$35,659

*Factors affecting profitability and cost include:*

- Surrounding municipalities with other ABC Boards operating stores within a fifteen (15) mile range include: One store operated by Southport ABC and one store operated by Oak Island ABC.
- The ABC Board currently owns the store location and will pay off long-term debt in 2022. Debt was originally financed for a store remodel.

- An ABC Board’s average cost of goods sold (COGS) is between 52% & 54% per year. The Boiling Spring Lakes Board’s cost of goods sold was approximately 50.7% in FY 2019-2020.
- *Mixed beverage sales are zero, as there are currently no mixed beverage permittees.*

## BUDGET ANALYSIS

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	FY2019-2020 Budget Projections	FY2019-2020 Actual	Variance	Variance %
<b>Sales</b>	\$1,020,000	<b>\$1,151,046</b>	\$131,046	12.8%
<b>Total Expenditures (to include Distributions)</b>	\$769,500	<b>\$877,100</b>	\$107,600	(14.0%)

In reviewing the budget to actual analysis of the FY2019-2020 financial audit, actual sales revenues were over the budgeted projections by 12.8%. Total expenditures were also over budget for the same period by 14.0%. The chart above shows the final budget to actual amounts and the appropriate positive or negative variances.

## DISTRIBUTIONS

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G.S. 18B-805 (b) requires the board to pay from gross receipts, all expenses, excise, and rehabilitation taxes. G.S. 18B-805(c)(2) requires the board to distribute at least five percent (5%) of applicable gross receipts to law enforcement and at least seven percent (7%) for alcohol education. *Before assigning these percentage distributions, G.S. 18B-805(c)(1) requires the board to first make a minimum quarterly distribution of the 3.5% markup & relevant bottle charges to certain county/municipal recipients. Some of these specific recipients are designated by an official local enabling act (and thus will vary).*

In FY 2019-2020, Boiling Spring Lakes ABC made distributions totaling \$26,603 (Town of Boiling Spring Lakes received \$25,000 of this). The amount of \$258,501 in excise and other taxes were paid to the NC Department of Revenue (NCDOR) and the county commissioners of Brunswick County.

*The remaining profits are to be distributed as follows per the current local enabling act:*

- One hundred percent (100%) to Boiling Spring Lakes General Fund

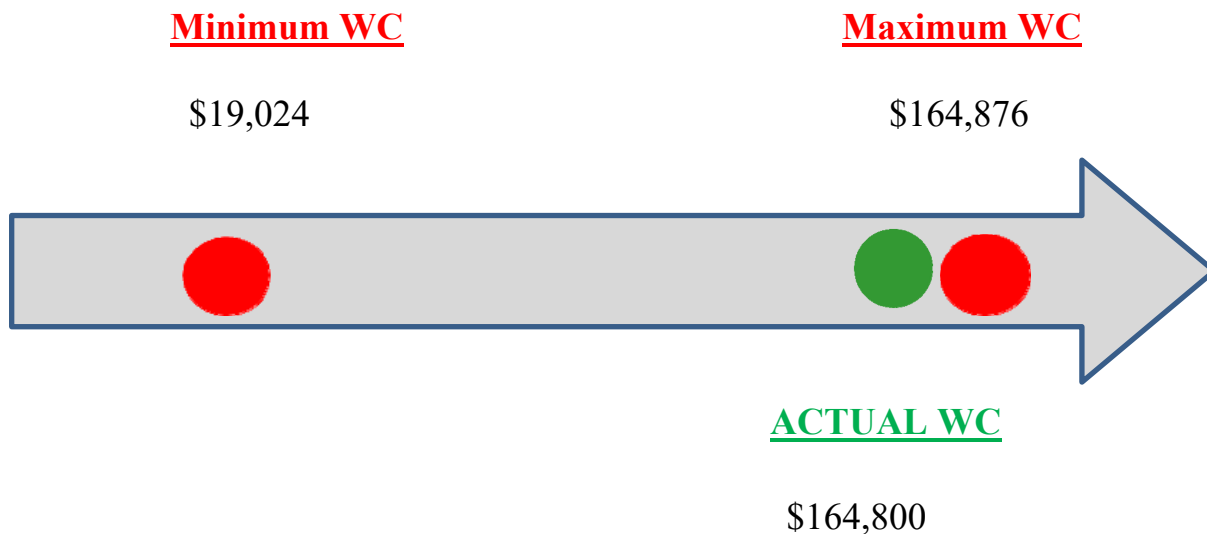
## WORKING CAPITAL

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G.S. 18B-805(d) allows the board to set aside a portion of the remaining gross receipts, within the limits set by the rules of the Commission, as cash to operate the ABC system. The NC ABC Commission has set a working capital standard for boards with annual gross sales less than \$1.5M an amount equal to four (4) months of sales revenue.

Based upon the existing rules, as of June 30, 2020, the Boiling Spring Lakes ABC Board is required to maintain a minimum working capital of \$19,024 with a maximum working capital amount of \$164,876. The Boiling Spring Lakes ABC Board had a working capital balance of \$164,800 which falls *within* the Commission requirements for this section (\*).

\* FY 2019-2020: *Working Capital (WC) graphic*



Under 18B-805(d), with approval of the appointing authority for the board, the local board may also set aside a portion of the remaining gross receipts as a fund for specific capital improvements. *Per the FY 2019-2020 CPA audit report, the Board and the Town of Boiling Spring Lakes had an agreement in place to keep \$50,000 in a capital improvement plan.*



## **PERSONNEL, OPERATIONAL & ADMINISTRATIVE COMPLIANCE**

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*The findings for personnel, operational & administrative compliance are as follows:*

- The board holds regular meetings the second Monday of each month at 10 AM, records regular meeting minutes, and provides public notification and awareness of these meetings.
- The board has a personnel policy manual and code of ethics policy as required. The personnel manual is on file with the Commission, and the code of ethics were approved under a former chairman.
- No budget amendments were approved by the board or submitted to the Commission from fiscal years 2019 through 2021.
- Presently, the current general manager also serves as the finance officer. The finance officer is signing checks as required per statute. Invoice records for liquor purchases reflect them as being paid in a timely manner. The same applies for distribution of revenue and distributions of profits.
- For financial oversight, the board members review bank statements and financial records monthly along with the general manager and assistant general manager. A CPA firm provides quarterly oversight as well. Board members are encouraged to conduct monthly checks and balances to ensure that cash management practices are upheld.
- Bank deposits are routinely made on a daily basis per review of bank statements.
- Until August 2021, law enforcement (LE) reports had not been submitted monthly as required since September 2018. Also, the LE contract on file does not reflect the current mayor or police chief.
- The recipient of alcohol education distributions has not been providing any documentation to the board describing any utilization of these funds. The board verbally discussed that the recipients had purchased glasses that mimic intoxication effects and educated school system students on the dangers of alcohol consumption.
- Due to improprieties and fraudulent activities by the former general manager over a minimum period of fiscal years 2019-2021, expenditures of salaries as well as store & office supplies heavily exceeded budgeted amounts. The former manager has been formally charged by local police and is awaiting a court appearance later in 2021.
- All board members and general managers are bonded as required; board members and general manager compensation adhere properly to general statutes. The board recently received a payment bond of \$50,000 to offset asset reductions.
- The board has implemented stronger internal controls. These include the following measures: General manager (GM) and Assistant GM both reviewing and signing off on bank reconciliations; for automated clearing house (ACH) payments including payroll are done in tandem and require separate codes on authentication for website login as well as processing payment entries; an ACH monthly printout will be kept on file and a copy provided to the Chairman.

## STORE APPEARANCE & SHELF MANAGEMENT

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*The findings for store appearance are as follows:*

- The store has been remodeled in recent years.
- The store displayed the required Fetal Alcohol Syndrome poster required by G.S. 18B-808.
- North Carolina products have their own section as required by law but are also cross merchandised according to product category. Green North Carolina product tags are displayed on the shelves throughout the stores to help stimulate sales.
- Products are placed within the designated categories; premium products are found at eye-level or top shelf. Regular occurrences were found with various bottle sizes of the same products increasing appropriately from left to right. Bottles were fronted and dusted.
- Outside area surrounding the store is well-maintained and free of debris or trash.
- Security systems are in place and functional in all designated areas.
- Store clerks' interactions with customers are attentive, courteous, and all are eager to meet the needs of the customers.
- While inspecting the store, a random sample of roughly 80 items was selected to determine if uniform pricing is displayed. Of those selected, all had the correct pricing.
- As a reminder, remove all faded posters and replace with new ones. The ABC Commission can provide fetal alcohol syndrome posters, NC Dept of Labor can provide wage & hour posters, and OSHA can provide some applicable federal posters if any are needed.

## **RECOMMENDED ACTIONS (PER STATUTES OR RULES) ....**

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- ABC Boards are required to operate within a balanced budget each fiscal year. Budget amendments must be approved by the board before any funds are transferred between accounts and utilized, occurring at the actual point of time an adjustment of funds is necessary. *Ensure budget amendments are submitted to the ABC Commission as required per NCGS 18B-702(h), to include a final reconciliation budget amendment for the FY 2020-2021 period.*
- Recipients of alcohol education/research funds must annually provide an annual report to the Boiling Spring Lakes ABC Board, describing how the funds were spent [*Referencing 18B-805(h)*]. Consider the request to obtain documentation before the funds are officially awarded or transmitted to the recipient.
- Law enforcement reports must be completed monthly. They should reflect and capture applicable occurrences of regulatory activity and training providing by contracted law enforcement agencies *per G.S. 18B-501(f1)*. If the board is submitting the monthly reports, law enforcement agencies should be communicating any applicable activities and compliance checks completed.
- Due to new town or law enforcement officials involved, a new law enforcement contract reflecting current town officials must be adopted and a copy provided to the Commission *per G.S. 18B-501(f)*.
- The Board has a code of ethics policy per G.S. 18B-706, and ABC Commission already has a copy. The following are recommended administrative actions:
  - The Board should consider signing a new acknowledgment / approval document for the code of ethics which reflects the current chairman and other applicable board personnel.
  - The Board should complete a Certificate of Accountability form declaring the statutory duties of the board have been properly performed.

## ADDITIONAL CONSIDERATIONS ....

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- Board member terms for the three-member board are not currently staggered in accordance with 18B-700(a). Two (2) board members have been appointed/reappointed in the same calendar year of 2021 with the third member up for potential reappointment in 2022. Ideally, for the best continuity of operations, the board would want to consider eventual term “realignment” to allow for each board member having term expirations which are approximately one (1) year apart (or as close as possible). *One strategy that would help accomplish this is to consider having the Vice Chairman or Secretary be reappointed in the year 2023. Because the other two board members have already been reappointed, this strategy would ensure each board member position would be properly staggered going forward.*
- The board should consider listing board member term expiration dates on the meeting minutes. This would provide high situational awareness and allow for efficient communication on updates with the Commission.
- To improve operating cost ratios, request bids annually from various vendors to get the best rates possible on financial audits, specific utilities, maintenance contracts, and credit card processing fees.
- The recent internal controls implemented are beneficial for the board to effectively increase diligent oversight for store operations and personnel. The Board is also encouraged to closely review financial statements monthly, comparing with the annual budget forecast, approving budget amendments when necessary and submitting copies to the Commission.
- Cross training opportunities for personnel should be maximized to ensure solid continuity of operations occurs for ABC boards. Also, training opportunities can work well to develop store employees for increased responsibility roles and serving to make the routine operations and employee morale stronger.
- Quarterly distributions of profits must occur (per G.S. 18B-805(c)(e), *unless the applicable distribution recipients approve of distributions made otherwise.*
- Consider using existing liquor inventory to fill in empty sections as applicable, until out of stock product or new product inventory has been established in the store and shelf space.
- Continue to ensure all purchase orders to include obligations evidenced by a contract or agreement requiring the payment of money, shall include or bear a certificate stating that the instrument (or order) has been pre-audited to ensure compliance with G.S. 18B-702(m). The specific statement should read, *“This instrument has been pre audited in the manner required by G.S. 18B-702.”*
- When applicable, ensure unsaleable merchandise (breakage) reports are submitted to the Commission quarterly. NCAC Rule 15A .1701 requires quarterly reports be submitted for any unsaleable merchandise and retain original copies for three (3) years.
- The Board can explore additional training opportunities periodically available through the ABC Commission as well as partnering with other ABC boards on specific areas such as best retail and marketing practices.

City of Boiling Spring Lakes ABC Board  
3130 George II Hwy SE  
Southport, NC 28461  
(910) 845-2609

February 21, 2022

Mr. Quinn Woolard  
North Carolina ABC Commission  
400 E. Tryon Rd.  
Raleigh, NC 27610

Dear Mr. Woolard,

We are responding to the audit performed September 15, 2021 and wish to thank you and the Commission for time spent completing the Performance Audit as well as presenting the audit findings. Please find below responses to the recommended actions and please do not hesitate to contact us with any questions you may have.

**Item 1: Budget Amendments**

Amendments to the 2020-2021 budget were completed and submitted to the Commission November 9, 2021 following Board approval.

**Item 2: Alcohol Education/Research Funds**

The recipient of the alcohol education fund for fiscal year 2020-2021 provided a letter detailing how funds would be used immediately following the award of funds on January 20, 2022.

**Item 3: Law Enforcement Reports**

Law enforcement reports are completed monthly and reflect occurrences of activity when communicated to the Board.

**Item 4: Law Enforcement Contract**

With the new Mayor and City Manager now in office the BSL ABC Board Chairman will request that a new contract be adopted. Once completed, a copy of the contract will be provided to the Commission.

**Item 5: Code of Ethics & Certificate of Accountability**

An updated acknowledgement / approval document for the code of ethics along with a Certificate of Accountability has been signed by current board members and copies submitted to the Commission on November 9, 2021.

**Item 6: Board Member Terms**

The Board will follow the recommendation of staggering term expirations and will have either the Vice Chair or Secretary request reappointment during 2023.

**Item 7: Board Member Term Dates**

Term expiration dates will be included in the minutes for monthly meetings.

**Item 8: Improving Operation Costs**

The Board has and will continue to request bids from multiple vendors for routine maintenance, audits, and credit card processing fees.

**Item 9: Internal Controls**

Financial statements and forecasts continue to be reviewed during each monthly meeting.

**Item 10: Quarterly Distributions**

Distribution of profits to the City is taking place with no plans or need to temporarily cease.

**Item 11: Empty Shelf Space**

Existing inventory is being used to fill empty sections whenever possible until out of stock inventory is received.

**Item 12: Compliance with G.S. 18B-702**

Upon receipt, purchase orders and invoices continue to receive certification stating that the instrument has been pre audited in the manner required by G.S. 18B-702.

**Item 13: Unsaleable Merchandise Reports**

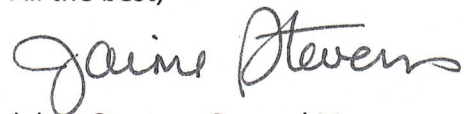
Reports continue to be submitted quarterly to the Commission and original copies will be stored for 3 years.

**Item 14: Training**

The Board continues to check for training opportunities available through the ABC Commission.

We do appreciate the opportunity to respond to the recommended actions and suggestions and sincerely appreciate your assistance and continued support.

All the best,



Jaime Stevens, General Manager  
Boiling Spring Lakes ABC Board