

## **PROCEDURES REGARDING SPARKLING WATERS HOMEOWNERS ASSOCIATION ELECTIONS**

**WHEREAS**, the Sparkling Waters Homeowners Association, Inc. (“Association”) Board of Directors (“Board”) are elected annually; and

**WHEREAS**, the Association has Membership meetings annually and Special meetings periodically at which resolutions are voted on for the purpose of adopting budgets, rules, and procedures; and

**WHEREAS**, the Association wishes to have election procedures specified for votes on both personnel and resolution issues; and

**WHEREAS**, the By-Laws of the Association require a secret written ballot for the election of the Board; and

**WHEREAS**, Section 720.306, Florida Statutes does not require an election for Board members if there are not more nominations than there are vacancies; and

**WHEREAS**, [Section 720.317, Florida Statutes](#) provides that an association may conduct elections and other unit owner votes through an Internet-based online voting system if a unit owner consents, in writing, to online voting and the following requirements are met: The association provides each Member with:

- (1) A method to authenticate the Member’s identity to the online voting system
- (2) A method to confirm, at least 14 days before the voting deadline, that the Member’s electronic device can successfully communicate with the online voting system
- (3) A method that is consistent with the election and voting procedures in the association’s bylaws;

**NOW THEREFORE**, the Association’s Board adopts the following resolution concerning election procedures:

- A. **Nomination of Candidates for Officer Positions.** Any Member of the Association in good standing may nominate themselves or another Member of the Association in good standing to the Secretary for any of the Officer positions to be filled at the next Annual meeting. If nominated in advance of the meeting, the nominee will be required to make several certifications confirming their willingness and fitness to serve in the position. This process is called qualification. If the nomination and qualification are made at least seven days prior to the Annual meeting, the candidate’s name will be listed on all ballots provided to the Members for voting. The Association By-Laws also allow nominations to be made from the floor at the Annual meeting. If a nomination is made from the floor at the Annual meeting, the Secretary will conduct qualification of the candidate during the meeting. Candidates nominated and qualified from the floor will not have their names listed on ballots provided to the Members for voting. Members must write-in the name of any candidate nominated from the floor.
- B. **Prior Identification of Resolutions.** Resolutions to be voted on at the Annual Meeting or any Special Meeting may be identified either by the Board, or an individual Member. The Board may identify resolutions to be voted on through their regularly scheduled

meetings. Individual members may identify resolutions to be voted on either in advance, or from the floor of the Annual Meeting itself. To identify a resolution in advance, the member should notify the Secretary of the proposed resolution at least seven days in advance of the meeting. The resolution still must be seconded by another member of the Association prior to voting, but the text of the resolution will be included by the Secretary in ballots provided to the Members for voting. Resolutions identified from the floor must be specified by exact wording by the proposing member, must be seconded by another member of the Association prior to voting, and will not be included on ballots provided to the members for voting. Such resolutions will only be voted on by one of the non-secret voting procedures: voice vote at the meeting, and written ballots after the meeting if needed to obtain a quorum.

- C. **Voting procedures.** The Association will not hold elections for uncontested Officer positions in accordance with Section 720 of the Florida Statutes. The Association By-Laws require a secret written vote for Officers at the Annual meeting. The Association also provides secret written voting for resolutions identified at least seven days in advance of the meeting. The members may waive these procedures and opt for non-secret methods by majority vote of those attending the meeting. The non-secret method categories are: voice vote at the meeting, and written ballots after the meeting if needed to obtain a quorum. There are a total of five voting methods that will be outlined below: 1) voice vote; 2) written secret ballot, 3) proxy, 4) voting via video conferencing, and 5) written ballot.
- a. **Voice Vote.** If the majority of members in attendance at the meeting agree to waive the secret written vote procedures, all votes may be conducted by a show of hands or audible “aye” or “nay.” This voting method does not allow a secret vote and is not auditable like other methods, but is often used for non-controversial votes.
  - b. **Written Secret Ballot.** If the members desire to have a secret vote, the Association will pass out printed ballots with no identifying marks to allow the members to vote for Officers and resolutions without their vote being known. The Secretary will provide a ballot for each eligible property owner, one ballot per property. The Members will deposit their complete ballot in a collection vessel when voting takes place. This method is both secret and auditable. It is known how many ballots are passed out, so the number of votes can be verified against the number of valid ballots, the ballots themselves can be recounted, and no one knows how each Member voted except the Member themselves.
  - c. **Proxies.** Property owners have the right, as specified in the Sparkling Waters governing documents, to vote by proxy. One vote per lot owned. To be valid, a proxy must be dated, must state the date, time, and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. All proxies shall be in writing and filed with the Secretary of the Association in advance of the applicable meeting. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully

adjourned meeting thereof. In no event shall any proxy be valid for longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the Member executing it. If the name of the proxy for the Member is not specified, the proxy shall be granted to the President. The Member submitting the proxy may specify in writing how they want their proxy to vote, but then their vote will not be secret. At the meeting, valid proxies will be issued printed ballots with no identifying marks to allow the proxy to vote for Officers and resolutions without their vote being known. The proxy vote is not completely secret, as the proxy knows how the vote was cast on behalf of the Member, and if written instructions for voting are included, the Secretary will also know how the proxy was directed to vote (but not how they actually voted). The proxy votes are auditable since it is known how many proxy ballots are distributed, the ballots themselves can be recounted, and the number of proxy votes can be verified against the number of valid ballots

- d. **Voting via Video Teleconference.** Members may attend meetings via video teleconference and may vote either using voice vote or via a voting function of the platform. Voice voting is not secret nor is it auditable. Voting using the platform voting function is not completely secret, since the Secretary will know how the member voted, but it is not a public vote like the voice vote. Voting through the platform function is auditable, since the number of votes can be compared to the number of eligible voting members on the video teleconference, and the vote tally can be recounted.
  - e. **Written Ballots.** If a quorum has not been achieved, written ballots may be used by the Association to obtain the vote of members who could not attend the meeting. Written ballots will only be used after the meeting has adjourned, and only for the purpose of obtaining a quorum. The written ballot is not secret since the members name and signature are written on the ballot itself. Written ballots are auditable since the ballot can be recounted, and the Member can be verified as not having voted twice.
  - f. **Electronic Voting.** There are several barriers to electronic voting in the Association By-Laws. The Board will examine the possibility of updating the By-Laws and Voting procedures in the future to allow electronic voting, but electronic voting cannot currently be conducted while complying with both State law and the governing documents.
- D. **Action by Written Agreement.** The Members can act by written agreement of the Members without meetings on the condition that the written agreement is agreed to and signed by fifty-one percent (51%) of the Members. However, written agreements can not be utilized for election of Board members.
- E. **Appointment of Election Auditor(s).** The Board may appoint an Election Auditor or multiple Election Auditors if they perceive a need, or if such appointment is requested by a Member of the Association. The Auditor(s) shall audit the election results and report on

the results of the audit to the membership of the Association. The Auditor(s) may also take the place of the Secretary of the Association regarding the election of the Secretary in the case that the election is contested.

F. **Effective date.** The policies set forth herein shall take effect immediately.

ADOPTED by the Board of Directors of the Sparkling Waters Homeowners Association, Inc. by a vote of 4 to 0 on this 7th day of December, 2023.

Sparkling Waters Homeowners Association, Inc.

By:  
Barry S. Graham  
Position: President

By:  
Alicia G. Graham  
Position: Secretary/Treasurer

Background info to be deleted.

---

From: <http://www.myfloridalicense.com/dbpr/lsc/documents/CHAPTER720Booklet.pdf>

*To vote If the governing documents permit voting by **secret ballot** by members who are not in attendance at a meeting of the members for the election of directors, such ballots must be placed in an inner envelope with no identifying markings and mailed or delivered to the association in an outer envelope bearing identifying information reflecting the name of the member, the lot or parcel for which the vote is being cast, and the signature of the lot or parcel owner casting that ballot. If the eligibility of the member to vote is confirmed and no other ballot has been submitted for that lot or parcel, the inner envelope shall be removed from the outer envelope bearing the identification information, placed with the ballots which were personally cast, and opened when the ballots are counted. If more than one ballot is submitted for a lot or parcel, the ballots for that lot or parcel shall be disqualified. Any vote by ballot received after the closing of the balloting may not be considered.*