

## **Grand Highlands at Bearwallow Mountain Subdivision (GH)**

### **Common Space Set Aside for Pasturing Horses**

GH has approximately 90 acres of Common Space<sup>1</sup>, of which 20 acres has been set aside for the pasturing of horses. (Only 65% - 70% of the 20-acres is usable for grazing horses.)<sup>2</sup>

Among other responsibilities, the GH Homeowners' Association (GH HOA), a NC nonprofit corporation, has a duty under NC statutes and the Association's Declaration to preserve and maintain all GH Common Elements, including structures, roads, and Common Space.

After engaging an outside expert, researching many pasture management articles, and visually inspecting the pastures, the GH HOA has determined that the 20 acres set aside for pastures are in need of immediate attention to revitalize that Common Space.

Levi Smith, a pasture management expert with Southern States Cooperative, accompanied several HOA Board of Directors on an extensive survey of the GH pastures, and he pointed out:

- pastures are severely over grazed
- horses have eaten the grass to the dirt and removed most of the nutrition that the grass stores in the stem 2-3 inches above the ground
- many muddy areas with no grass
- an abundance of weeds in many areas
- excessive amounts of manure that require raking/dragging, and removal in some areas
- several water erosion problems

Several important conclusions are:

- the GH HOA pastures need immediate treatments of lime, herbicide, fertilizer, and grass seed to revitalize the pastures with healthy grass
- well-managed pastures can support a maximum of 1 horse per 2-4 usable grazing acres, with fewer horses if the average horse weight exceeds 1,000 pounds or the grazing acres are not managed on a comprehensive on-going basis
- it is essential to rotate horses from pasture to pasture on a regular basis, so that pastures can "rest" allowing for healthy grass to recover

The GH HOA has been renting pasture space for the pasturing of horses to several GH Lot Owners, for a nominal fee. Expectations for horse owners include such requirements as:

- collaborate cooperatively as an equine community
- using personal time and funds to carry out pasture care management, including applying treatments to the pasture to preserve healthy grass
- raking/dragging and removal of manure on an on-going basis

The above "pasture space rental" expectations have not come to fruition, and there is no evidence that the horse owners can possibly achieve the expected outcomes.

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<sup>1</sup> Common Space is a Common Element under NC statutes and the GH HOA's Declaration

<sup>2</sup> NC statutes and the GH HOA's Declaration do not provide for a Common Element to be used for an Equestrian Center or Horse Boarding Facility

It is noted that two Lot Owners (Brinson and Etzel) spent over \$65,000 to purchase and install a horse barn in the south pasture, which is now a GH HOA Common Element. In return, the GH subdivision Declarant promised those Lot Owners pasture space rental “slots” for five years expiring on December 8, 2025, with a possible extension for five additional years; with notice to the GH HOA and other obligations.<sup>3</sup> The Brinson family paid thousands of dollars for other HOA improvements, including 300+ feet of wood fencing separating the south pastures from the Meadows Neighborhood; which they also installed.

As a result, given the GH HOA’s duty to preserve and maintain all Common Elements, the GH HOA Board has decided to implement the below action plan.

**GH HOA plan to revitalize the Common Space set aside for the pasturing of horses:**

1. Suspend the pasturing of all horses from April 1, 2023, through September 30, 2023, to provide the GH HOA an opportunity to revitalize the pastures with healthy grass
2. As soon as possible, the GH HOA will provide notice to all horse owners of the decision to terminate the pasturing of all horses, effective March 31, 2023, with the horse owner needing to remove the horse(s) from GH by that date<sup>4</sup>
  - a. GH HOA Board will invite all horse owners to a meeting, so that the above termination notice and the below “return provisions” can be communicated
  - b. Certified letter communicating the above termination notice will be sent to each horse owner’s home address
  - c. A financial penalty of \$100 will be assessed to horse owners for each day after March 31, 2023, a horse is not removed from GH (as with other fees, non-payment may result in a lien on the Lot Owners property)
3. GH HOA to revitalize the pastures, starting mid-February through September 2023<sup>5</sup>:
  - a. Mid-February through March: clean up manure, correct erosion issues, and install new gate in south pasture; GH HOA
  - b. March: first application of lime; Southern States
  - c. Late-March: first application of herbicide (need to locate a sprayer for the herbicide treatment); GH HOA
  - d. April: application of fertilizer; Southern States
  - e. Late-April: application of grass seed – overseeding; GH HOA
  - f. Mid-Summer: second application of herbicide; GH HOA
  - g. Spring, Summer and Fall: mowing grass, as needed; GH HOA
  - h. August: second application of lime; Southern States
  - i. Total economic cost to the GH HOA for the above, excluding loss of pasture space rental fee, is estimated to be \$7,600 to \$9,500
4. Entry of horses in the GH HOA Common Space set aside for pasturing of horses:
  - a. Horses may be placed in the pastures no earlier than October 1, 2023, assuming the pastures have recovered with healthy grass

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<sup>3</sup> Declarant promised four slots to the Brinson family and two slots to E. Etzel.

<sup>4</sup> Board authority to terminate renting of pasture space is stated in Board policy and the agreement each horse owner signed

<sup>5</sup> Actual treatment timing will be dependent of weather and availability of services by Southern States; costs are estimated in a separate table for pasture treatment activities

- b. No more than a maximum of four horses will be allowed in the pastures<sup>6</sup>
  - c. No horse weighing more than 2,000 pounds will be allowed in the pastures
  - d. Starting with the first horse owner originally renting pasture space at GH, and continuing chronologically, horse owners will be invited to place their horse(s) in GH HOA pastures, based on executing all of the below requirements within two weeks of receiving such invitation:
    - i. Horse owner is a current GH Lot Owner in good standing (no outstanding assessments, fees or fines) – must remain a GH Lot Owner in good standing to continue pasturing a horse at GH
    - ii. Horse owner provides proof of annual immunizations and a negative Coggins test (proof of immunizations and a negative Coggins test are required each year, immediately following 12 months of the last immunizations)
    - iii. Horse owner agrees to pasture management requirements noted in this document, along with any additional requirements set by the GH HOA, and the “equine community” requirements noted in this document, along with any additional requirements set by the GH HOA
    - iv. Horse owner executes the requisite agreement with the GH HOA, as noted in this document, along with any additional provisions established by the GH HOA
    - v. Horse owner pays to GH HOA a one-time non-refundable Entry Fee equal to \$2,000 per horse or \$3,000 if the horse is significantly over 1,000 pounds<sup>7</sup>
      - 1. This Entry Fee would apply to any future new horse invited to pasture in the GH HOA Common Space
      - 2. In the event a horse dies and the horse owner places a new horse in the GH HOA pastures within 90 days, and the horse owner continues to pay the monthly pasture space rental fee, then there will not be an additional Entry Fee
    - vi. The timing for invitations to be sent to Lot Owners/horse owners will be at the discretion of the HOA Board
    - vii. Horse owners who do not provide all of the above requisite items within two weeks of the invitation to place a horse in the GH HOA pastures will forfeit that invitation, and the GH HOA will provide the next horse owner, chronologically, an “invitation”
    - viii. Acceptance of an “invitation” and payment of an Entry Fee is not transferable to another horse owner, in any manner
5. GH HOA will preserve and maintain the pastures on an on-going basis by:
- a. Limiting the number of horses pasturing in this GH HOA Common Space to no more than a maximum of four horses; and not allowing a horse weighing 2,000 pounds or more to pasture at GH

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<sup>6</sup> Research indicates a standard of 1 horse per 2 to 4 usable pasture acres, with a small number for larger horses, unfavorable conditions and terrain, or the pasture is not well-managed on a regular basis

<sup>7</sup> The one-time Reinstatement/Entry fee is to help recover GH HOA expenses associated with revitalizing the pastures

- b. Requiring that all horse pasturing is rotated<sup>8</sup> on a regular basis from pasture to pasture, such as from the north to south pastures, to allow pastures to recover with healthy grass
- c. Requiring that manure be raked/dragged or removed on a regular basis, and that piles are not allowed for more than 30 days and are removed from GH, at the horse owner's expense
- d. Requiring horse owners to:
  - i. work as a collaborative cooperative equine community
  - ii. effectively apply care management principles to the pastures and barns
  - iii. resolve day-to-day issues in an equitable and collaborative manner
  - iv. communicate with each other, regularly, effectively, and respectfully
  - v. send the HOA Board a bi-monthly report of pasture and barn care activities
  - vi. ensue horses are pastured only in GH HOA Common Space designated as pastures
  - vii. annually submit to the GH HOA proof of all requisite immunizations and a negative Coggins test
  - viii. abide by all GH HOA policies and expectations
  - ix. sign an agreement that releases the GH HOA from any and all liability
- e. Arranging and paying for an annual application of lime and fertilizer; currently estimated at \$4,000 per year

#### 6. GH HOA Pasture Space Rental Fee

- a. A pasture space rental fee, to be paid monthly, will be set at \$400 per month per horse; with a monthly fee of \$700 for horses significantly above 1,000 pounds
  - i. Payable to "Grand Highlands HOA" with check placed in the GH HOA drop box or by ACH payment through QuickBooks
  - ii. Fee should be paid to the GH HOA prior to the first day of applicable month
- b. Rates will be set for the remaining months in 2023 and through 2024; with the GH HOA to consider changing rates after 2024
- c. To remain eligible to pasture horses in GH HOA Common Space, the horse owner must remain a GH Lot Owner in good standing and satisfy all requirements noted in this document
- d. In general, this fee is intended to support routine GH HOA operations, the annual treatments to the pastures arranged by the GH HOA, such as lime and fertilizer applications, and any other GH HOA activity needed to preserve and maintain the Common Space set aside for pasturing horses

The Entry Fee and monthly pasture space rental fees are not held in escrow for horse owners, and will not be used to cover other pasture or barn care management activities for which horse owners are responsible.

As a general policy, the GH HOA reserves the right, at its sole discretion, to change related policies and to terminate the pasturing of any horse in GH HOA Common Space, for any reason.

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<sup>8</sup> "Rotational Grazing" is a basic pasture management practice, allowing grass to recover, producing healthy forage for horses