

# The Corporation of the Municipality of Highlands East

## By-Law No. 2015-18

Being a By-Law a by-law to control cemeteries owned by the Corporation of the Municipality of Highlands East and to Rescind By-law No. 2013-20.

**WHEREAS** the Corporation of the Municipality of Highlands East owns and operates the following cemeteries:

- |  |        |
|--|--------|
| 1. Gooderham Cemetery in part of lot 26, concession 5, | Ward 3 |
| 2. Deer Lake Cemetery in part of lot 25 concession 18  | Ward 2 |
| 3. McGillivray Cemetery in part of lot 21 concession 7 | Ward 2 |
| 4. Essonville Cemetery                                 | Ward 4 |
| 5. South Wilberforce Cemetery                          | Ward 4 |

and enacted By-law No. 2013-20 to establish Rights, Entitlements and Restrictions for the management and use of cemeteries pursuant to the provisions of the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33.

**AND WHEREAS** the Council for the Corporation of the Municipality of Highlands East deems it expedient to rescind By-law No. 2013-20;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF HIGHLANDS EAST HEREBY ENACTS AS FOLLOWS:**

### **1. INTERPRETATION**

For the purpose of this By-Law the following terms shall have the corresponding meanings:

- a) “**Act**” means the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33.
- b) “**Adult Grave**” shall mean any burial space of sufficient area for one opening for an adult and having a minimum size of 8 feet by 4 feet.
- c) “**Care and Maintenance Fund**” means the trust fund established pursuant to s.51 of the Act, with respect to the Cemeteries.
- d) “**Cemetery**” shall mean any cemetery owned and or operated by the Municipality of Highlands East.
- e) “**Cemetery Services**” means,

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- i. Opening and closing of a grave
  - ii. Interring or disinterring human remains
  - iii. The placement of monuments, flat markers and footstones
  - iv. Such other services as are provided by the owner of the cemetery at the cemetery
- f) **“Cemetery Supplies”** includes interment vaults, markers, flowers, urns, shrubs and artificial wreaths and other articles intended to be placed in a cemetery.
- g) **“Child’s Grave”** means any burial space of sufficient area for one opening for a child and having a minimum size of 8 feet by 4 feet.
- h) **“Clerk”** means the Clerk for the Municipality of Highlands East or his/her designate.
- i) **“Columbarium”** means a structure containing individual compartments or niches for placement of human cremated remains.
- j) **“Corner Posts”** means any stone or other land marks set flush with the surface of the ground and use to indicate the corners of a grave.
- k) **“Council”** means the Council of the Corporation of the Municipality of Highlands East.
- l) **“Footstone”** means a stone set flush with the surface of the ground so that a mower can pass over same and which, after the date this by-law comes into force, will not exceed twelve by eighteen inches with a depth of three to five inches.
- m) **“Foundation”** means a concrete base for a monument which has a minimum depth of six inches.
- n) **“Human Remains”** means a dead human body and includes a cremated human body.
- o) **“Inter”** means the burial of human remains and includes the placing of human remains in a lot.
- p) **“Interment Rights”** includes the right to require or direct the interment of human remains in a lot.
- q) **“Interment Rights Holder”** means a person with interment rights with respect to a lot and includes a purchaser of interment rights under the Act, or a predecessor of that Act.

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- r) **“Lot”** means an area of land in a cemetery containing, or set aside to contain, human remains including an adult’s grave or child’s grave.
- s) **“Marker”** means any memorial or granite, marble or bronze set flush with the surface of the ground and used to mark the location of a grave.
- t) **“Ministry”** refers to the Ministry of Government and Consumer Services.
- u) **“Monument”** means any monument, tombstone, headstone or other structure or ornament affixed to, or intended to be affixed to a lot, mausoleum crypt, or columbarium niche or other structure or place intended for the deposit of human remains which projects above level ground.
- v) **“Municipality”** means the Corporation of the Municipality of Highlands East.
- w) **“Niche”** means an individual compartment in a columbarium for the entombment of cremated remains.
- x) **“Plan”** means the plan or plans of the cemetery, approved by the Ministry.
- y) **“Registrar”** means the Registrar appointed under the Act.
- z) **“Supervisor”** means the Property Supervisor for the municipality.
- aa) **“Clerk”** means the Clerk for the Municipality of Highlands East or his/her designate.
- bb) **“Treasurer”** means the Treasurer for the Municipality of Highlands East or his/her designate.
- cc) **“Tribunal”** means the Commercial Registration Appeal Tribunal.
- dd) **“Trust Fund”** means a trust fund established for the purpose of this Act.

## 2. **RIGHTS, ENTITLEMENTS AND RESTRICTIONS**

The Cemeteries shall be managed and governed by the rights, entitlements and restrictions set out in Schedule “A” attached to this by-law.

**N.B. Changes made by the Ministry of Government and Consumer Services highlighted in red – received at main office on May 5, 2015**

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**3. TARIFF PRICE LIST**

All sales of lots and all cemetery services provided by or on behalf of the interment rights holder shall be made or performed based on the Price List ~~set out in Schedule “B” to this by-law.~~

**4. CEMETERY INFORMATION**

Schedule “C”, cemeteries owned by the Corporation of the Municipality of Highlands East.

**5. SCHEDULES**

That Schedules “A”, ~~“B” and “C”~~, attached hereto, is hereto declared to form part of this By-law.

**6. AMENDMENTS**

That ~~Schedule “B”~~, the Price List annexed hereto, which may be amended from time to time by resolution of Council without an amendment to this by-law.

**7. DATE OF EFFECT**

The effective date of this by-law shall be the date it is approved by the Registrar.

**8. REPEAL**

Upon the effective date of this by-law, By-Law No. 2013-20 is hereby repealed in its entirety.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED** this 13<sup>th</sup> day of April, 2015.

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**Reeve**

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Clerk

### SCHEDULE "A"

#### **RIGHTS, ENTITLEMENTS AND RESTRICTIONS**

##### **1.0 ADMINISTRATION AND ENFORCEMENT**

- 1.1 The Municipality of Highlands East reserves full and complete control and management of the cemeteries together with the records of the cemeteries and has complete authority to administer regulations.
- 1.2.1 The general maintenance of the cemeteries and provision of cemetery services shall be provided by, or arranged by, the Clerk subject to the advice and/or direction of Council. Except for the fees and charges set out in **Schedule "B", the Price List**, the Municipality of Highlands East shall maintain without charge to interment rights holders, the grounds of the cemeteries to ensure the safety of the public and to preserve the dignity of the cemetery.
- 1.3 The Clerk shall be responsible for all sales of lots and cemetery services, for the maintenance of the cemetery records and shall administer the Council approved budget. The Clerk shall render all accounts and notices in connection with cemetery business and shall transact all routine business subject to Council approval.

The Clerk shall maintain up-to-date records, which shall include:

- a) Plans or surveys of the cemeteries;
  - b) The names of all interment rights holders and their addresses;
  - c) Copies of all transfers of interment rights;
  - d) The date of, and location of, all interments within the cemeteries, and whether such interments are of cremated remains;
  - e) A copy of the consent of the interment rights holder for each interment; and
  - f) Application for consent with respect to the placement of markers.
- 1.4 The Treasurer shall be responsible for the investment of care and maintenance funds.

##### **2.0 SALES OF INTERMENT RIGHTS AND TRANSFERS**

**N.B. Changes made by the Ministry of Government and Consumer Services highlighted in red – received at main office on May 5, 2015**

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- 2.1 All sales of interment rights and cemetery services or cemetery supplies shall be made by the Clerk and the person making application to purchase interment rights shall be entitled to a Certificate of Interment Rights upon payment to the Clerk of the applicable price based on the price list, ~~as set out in Schedule "B" to this by-law.~~
- 2.2 Interment rights may be paid for in cash or by cheque delivered to the Clerk. The applicant shall not be entitled to a Certificate of Interment Rights and no interment shall be made in a lot until the purchase price hereunder has been paid in full.
- 2.3 Interment rights shall be sold at the rates shown in ~~Schedule "B";~~ the Price List.
- 2.4 Interment rights holders shall acquire only the right and privilege to require or direct the interment of human remains in the lot and of erecting monuments and markers subject to the rules and regulations affecting the cemetery as approved by the Ministry.
- 2.5 Lots shall not be used for any other purpose than for the interment of human remains.
- 2.6 In cases of transfer of interment rights by will or bequest, the municipality reserves the right to require the production of a notarized copy of the will or other evidence sufficient to prove ownership. Original certificates of Interment Rights shall be returned to the Clerk who may then issue a new certificate.
- 2.7 The Clerk shall provide each Rights owner at the time of sale with:
  - a) A copy of the contract;
  - b) A copy of the Cemetery By-Laws; and
  - c) Upon payment in full a Certificate of Interment Rights
  - d) **Consumer Information Guide**
- 2.8 An interment rights holder may require, by written demand, the municipality to repurchase the rights at any time before they are used.
- 2.9 If the municipality receives notice that a purchase of interment rights is cancelled within thirty days, the municipality will refund to the purchaser all money received within thirty days of receiving the notice.
- 2.10 If the municipality receives notice that a purchase is cancelled after thirty days, the municipality shall retain all funds placed in the care and maintenance fund. This also applies to all purchases that were made before this Act came into being.

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- 2.11 An interment rights holder can only sell their interment rights to the Municipality of Highlands East. The repurchase price shall be deemed to be no more than the price listed on the current price. The municipality shall retain all funds placed in the care and maintenance fund.
- 2.12 No refund or repurchase will be made for any lot if any interment rights have been exercised, ~~unless all human remains have been legally relocated.~~
- 2.12 The municipality does not provide pre-need services.

### **3.0 MANAGEMENT OF FUNDS**

- 3.1 The Treasurer, subject to advice from the Clerk and Council shall be responsible for the management and investment of care and maintenance funds in accordance with the provisions of the Act and regulations there under.

### **4.0 CARE OF LOTS**

- 4.1 All lots and graves sold or assigned shall be maintained and kept properly graded, sodded and mown by employees of the municipality.
- 4.2 If any trees, shrubs or flowers situated on any lot become detrimental to other adjacent lots whether by means of their roots, branches or otherwise, or if they are prejudicial to the general appearance of the cemetery, the Supervisor may have such trees, shrubs or flowers or parts thereof removed. The planting of any trees or shrubs shall not be permitted.
- 4.3 No person shall do any work upon a burial lot without the permission of the Clerk or the Supervisor.
- 4.4 Flower beds and borders are prohibited.
- 4.5 Lot owners desiring to take any plants away should do so before their removal becomes necessary. To ensure that there is no unauthorized interference with flowers or decorations upon the graves or elsewhere in the cemetery, it is necessary to secure permission from the Clerk before removal.
- 4.6 Vases, urns, flower stands, etc. shall be removed from the lot after two weeks after interment.

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- 4.7 During the growing season (usually from May to October) while natural flowers are available, artificial flowers are not permitted.
- 4.8 Borders, fences, railings, walls, cut-stone copings and hedges in or around lots are prohibited.
- 4.9 Rubbish shall not be thrown out on roads, walks or any part of the grounds.
- 4.10 No lot owner shall change the grading of his/her lot and in case of any such change, the Municipality may restore the lot to its original grade at the expense of the owner.
- 4.11 No unauthorized person shall sod or remove corner posts or grave markers.
- 4.12 No construction work, including installation of foundations, monuments, markers, footstones or other items shall be allowed on Sundays.
- 4.13 No foundations may be constructed after November 15<sup>th</sup> in any year and before April 1<sup>st</sup> in the following year, unless approved by the Supervisor.
- 4.14 The Municipality shall not be responsible for loss of or damage to any articles upon any lot or grave.

### **5.0 MONUMENTS AND MARKERS**

- 5.1 All foundations for monuments and markers shall be constructed by the Municipality of Highlands and arranged through the Clerk.
- 5.2 Monuments are to be erected by or for lot owners and shall be set upon adequate concrete bases, and no foundations shall be less than 6” in depth. The upper surface of the foundations shall extend two inches on all four sides and the Monument Base shall be a minimum of 2” above ground.
- 5.3 The maximum size of monuments shall be Height -48”, Width -24”, Depth -8” for a single grave and Height -48”, Width -42”, Depth -8” for a double grave. The monuments must be placed at the head of the grave.
- 5.4 Not more than one monument shall be erected on any one grave and this must be placed in the space reserved for it unless special permission is given by the Municipality for placing it otherwise.

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- 5.5 All markers, monuments, mausoleums or tombs shall be constructed of bronze, granite or marble or as otherwise approved by the Municipality. The bottom bed of all bases and markers shall be cut level and true.
- 5.6 No inscription shall be placed on any monument which in the opinion of the Municipality, is not in keeping with the dignity and decorum of the Cemetery.
- 5.7 No lettering shall be permitted on the side of the monument which in the opinion of the Municipality is not in keeping with the dignity and decorum of the Cemetery.
- 5.8 One marker with a flat and level surface set flush with the ground may be placed at each grave for each interment in addition to the monument.
- 5.9 Markers or footstones of bronze, marble or granite are permitted but must not exceed twelve inches by eighteen inches with a depth of three to five inches. The upper surface must be flat with no projections and shall be set level with the ground surface.
- 5.10 Each single grave may be marked on the ground with a flat marker as in 5.8 above.
- 5.11 The owner may on the receipt of his/her Certificate of Internment Rights, at his/her own expense have bronze, stone or concrete corner stones, between six and seven inches square and not less than six inches deep, planted flush with the ground.
- 5.12 If any monument or other structure, or any inscription be placed in or upon any lot which shall be determined by the Municipality too offensive or improper, the Municipality may enter the lot and remove the said offensive or improper objects, if the lot owner has failed to do so after due notice of one week has been given.
- 5.13 The following rules apply the monument dealers, contractors and workers in the cemetery:
  - a) No monument or marker will be delivered to the cemetery without the proper paperwork.
  - b) No monument or marker will be delivered to the cemetery until the foundation is completed and the contractor is ready to proceed with the work of erection.
  - c) No monument or marker will be removed without written permission from the Clerk.

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- d) All companies who do work in the cemetery shall have Workplace Insurance coverage for their workers as well as sufficient liability insurance.
- e) Contractors, masons and stonecutters shall lay planks on the lots and paths over which heavy materials are to be moved, in order to protect the surface from injury.
- f) There shall not be a variance of more than ½ inch in the size of the base required as stated on the work order and the size of the monument delivered.
- g) The demeanor and behaviour of all persons employed by others in the cemetery shall be subject to the control of the Supervisor.
- h) Workers shall cease work if in the immediate vicinity of a funeral until the conclusion of the service.
- i) All work must be done during regular cemetery hours, unless by special permission of the Municipality.
- j) Heavy loads shall not be permitted in the cemetery when the roads are in unfit condition.
- k) No monument dealer shall park on the grass unless otherwise directed to do so by the Supervisor.
- l) All implements and materials used in the performance of any work shall be placed where the Supervisor may direct, and all rubbish and surplus earth shall be removed when, and to where, and in such manner as the Supervisor may order. Otherwise the obstructions will be removed and the expense charged to the monument dealer.
- m) If a monument dealer or contractor desires to set a flat marker, such person must make written arrangements with the Clerk as to time of installation. The monument dealer or contractor must pay the municipality the prescribed stake-out fee plus H.S.T.
- n) Any workman who damages any lot, tombstone, monument or other structure or otherwise does any injury in the cemetery, shall be personally responsible for such damage or injury, and in addition thereto, his/her employer shall be liable therefore.

### **6.0 INTERMENTS AND DISINTERMENTS**

- 6.1 No human remains shall be interred in the cemetery unless a burial permit has been issued with respect to the deceased person pursuant to the provisions of the Vital Statistics Act.
- 6.2 All interments in lots shall be restricted to members of the family or on order of the owner.

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- 6.3 Notice of each interment to be made shall be given to the Clerk or his/her designate, by the interment rights holder or the personal representative of such holder, or the funeral director operating pursuant to instructions from such persons at least 24 hours prior thereto, unless ordered by the appropriate Provincial authority to the contrary.
- 6.4 No interment shall be made in the cemetery at any time on Sunday or any statutory holiday, except based on a doctor's certificate that burial must be made within 24 hours of death in accordance with the regulations of the Ontario Ministry of Health for the control of communicable diseases.
- 6.5 No interment shall be made without the written order of the Interment Rights Holder of the lot or their legal representative.
- 6.6 Interment charges shall be the responsibility of the Rights Holder, agents or executor/trix requesting burial.
- 6.7 When a lot is held jointly by two or more persons, a written order will be accepted from either or any of them or their authorized representatives, for interment as such part of the plot as may be requested.
- 6.8 No winter burial shall take place between December 1<sup>st</sup> and April 1<sup>st</sup> in any year, unless weather or ground conditions permit an extension.
- 6.9 No grave or vault shall be opened for interment or disinterment by any person not in the employ of the Municipality, except under special circumstances and by the permission of the Council of the Municipality of Highlands East.
- 6.10 Each grave shall be of sufficient depth to give a covering of at least two feet of earth over the outside cover or shell of the coffin or other receptacle.
- 6.11 In digging a grave the surplus material shall be removed to such place as may be designated by the Supervisor. Mounds shall not be permitted over graves, after three days from the date of burial.
- 6.12 Each lot may contain a maximum of the following:
  - a) One (1) burial and three (3) cremations, subject to burial first, then cremations;  
or
  - b) Four (4) cremations

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6.13 No disinterment shall be made without the written consent of the local medical office of health and the interment rights holder except under a court order as provided in the Act. Proper documents and the necessary fees shall be provided prior to the disinterment.

6.14 Where orders for interments are given by telephone, the Municipality will not be responsible for any errors or misunderstandings that may arise, and such verbal orders shall be confirmed in writing prior to the funeral.

### **7.0 COLUMBARIUM NICHES**

#### **7.1 Payment:**

Payment must be made to the Cemetery before an Entombment may take place.

#### **7.2 Interment:**

Each niche may contain a maximum of two (2) cremations.

#### **7.3 Sealing after Entombment:**

Only the Cemetery may open and seal Niches for Entombments. This applies to the inside sealer and the Niche front.

#### **7.4 Niche Inscriptions and Adornments on Memorials Owned by the Cemetery:**

To ensure **uniformity and standard of workmanship, only the cemetery shall cause to inscribe all niche doors.** Approved samples are on display at the Municipal Office. Any unauthorized adornment or emblem will be removed and disposed of without notification and at the expense of the Interment Rights Holder(s). No persons other than employees of the Municipality shall remove or alter niche fronts.

#### **7.5 Floral Tokens from Funeral Services:**

Floral tokens from services may be placed in a designated area and will be removed and disposed of the same day.

#### **7.6 Floral Tokens in Outdoor Niches:**

Artificial and fresh cut flowers in vases attached to Niches are permitted any time provided that they do not encroach on adjacent Niches. Artificial and fresh cut flowers that have become unsightly will be removed and disposed without notification.

#### **7.7 Articles not Permitted:**

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**No plaques, vases, adornments or emblems shall be affixed to the columbarium or the individual niches.** Pedestals, urns, candles, vesper lights, articles of a heavy or cumbrous character, musical greeting cards, and any articles placed on the floor or ground are deemed to be prohibited articles, and shall not be allowed on or in the general vicinity of the Niche. Prohibited articles will be removed and disposed without notification.

### 8.1 **RULES FOR VISITORS**

- 8.1 Visitors are welcome at the cemetery during daylight hours. Visitors are requested to respect the deceased and conduct themselves accordingly.
- 8.2 No parades other than funeral processions shall be admitted to or organized within the cemetery.
- 8.3 Children under the age of twelve (12) years are not permitted on the grounds unless accompanied by an adult who shall be responsible for their conduct.
- 8.4 Pets are not permitted in the cemetery.
- 8.5 No person within the cemetery shall:
- a) Willfully destroy, injure or remove any monument, marker, structure, tree or shrub.
  - b) Play any sport.
  - c) Carry any firearm except during a military funeral.
  - d) Commit a nuisance.
  - e) Hold a picnic or party.
  - f) Advertise or canvas for orders or distribute business cards.
- 8.6 Vehicles within the grounds shall not exceed 10 kilometres per hour and must travel on the driveway portion only.
- 8.7 Any person defacing monuments or cemetery property shall be prosecuted according to law.
- 8.8 Municipal staff are responsible for maintenance and are empowered by the Municipality of Highlands East to expel persons disturbing the good order of the cemetery either by noise, improper conduct or violation of cemetery rules.
- 8.9 Picking, cutting or digging or any wild or cultivated plants in the cemetery is

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strictly forbidden.

- 8.10 Any complaints from Interment Rights Holders should be made to the Clerk and not to Municipal staff on the grounds, and controversies with municipal staff or others on the grounds are to be avoided.

### **9.0 MISCELLANEOUS**

- 9.1 Notwithstanding the above rules and regulations, the Council for the Municipality of Highlands East, by resolution of the Council, requires certain work to be completed or other measures taken for the good of the cemetery which works or measures shall not conflict with the above rules and regulations.

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**PRICE LIST (*SEPARATE FROM BY-LAW*)**

**CEMETERY AND RELATED FEES**

**CEMETARY PLOT – INTERMENT RIGHTS FEE SCHEDULE:**

**Sale of Interment Rights Fee:**

Single Plot \$ 950.00 + H.S.T.

(\$570.00 Plot Fee + \$380.00 Perpetual Care)

**Other Fees & Services**

Reissue new certificate of interment rights \$ 15.00 + H.S.T.

**Open/Close/Disinterment Fee:**

Open/Close Fee/disinterment – Full Burial \$ 350.00 + H.S.T.

Open/Close Fee/disinterment - Cremation \$ 75.00 + H.S.T.

**Marker/Monument Fee:**

Monument Directors shall deposit with the Municipality of Highlands East the required contribution to the Care and Maintenance Fund for Markers prior to installation of Marker.

**O. Regulation 30/11**

Flat or pillow marker measuring at least 439.42 square Centimeters (173 square inches):

\$ 50.00 plus H.S.T.

Upright markers measuring 1.22 meters ( 4 feet ) or less in height, and 1.22 meters ( 4 feet) or less in length), including the base:

\$100.00 plus H.S.T.

Upright markers more than 1.22 meters (4 feet) in either height or length including the base:

\$200.00 plus H.S.T.

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### Schedule “C” – (SEPARATE FROM BY-LAW)

#### CEMETERY INFORMATION

The Municipality of Highlands East has five (5) active cemeteries as follows:

1. **Gooderham Cemetery** in part of lot 30, concession 5, geographic Township of Glamorgan
  - **McColl Road**
  - Located about 2 km. east of Gooderham on County Road 503
2. **Deer Lake Cemetery** in part of lot 25 concession 18, geographic Township of Cardiff
  - **Loop Road**
  - Located about 3 km. south of Highland Grove on Loop Road
3. **McGillivray Cemetery** in part of lot 21 concession 7, geographic Township of Cardiff
  - **1443 Upper Paudash Road**
  - Located about 1 km. north of Hwy. 28 on the McGillivray Road at the intersection of Upper Paudash Road
4. **Essonville Cemetery**, Conc. 14, N. Pt. Lot 19, S of township road, geographic Township of Monmouth
  - **1284 Essonville Line**
  - Located near the intersection of Jeffery Dr. and the Essonville line across the road from the Essonville Historical Church
5. **South Wilberforce Cemetery**, Conc. 12, Pt Lot 33, Plan 22; Block A & B, geographic Township of Monmouth
  - **1468 South Wilberforce Road**
  - Located about 4 km. south of Wilberforce on the Wilberforce Road across from the United Church

#### Closed Cemeteries

Pioneer Cemetery in North part of lot 26, concession 5, geographic Township of Glamorgan.

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It is recognized that the Pioneer Cemetery in Gooderham Ontario was closed to interments by virtue of by-law 381 passed on the 10<sup>th</sup> day of December 1905, and no Perpetual Care Fund exists for the Pioneer Cemetery, therefore the Pioneer Cemetery will be maintained by the Municipality of Highlands East in accordance with the Act with monies levied upon the ratepayers for that purpose.

No further burials shall take place at this cemetery.

Others:

### **Petrie Burial Ground**

Lot. 25, Conc. 20, geographic Township of Cardiff

### **Abandoned Cemetery**

Lot 15, Conc. 12, geographic Township of Cardiff

### **Anglican Church Cemetery**

Lot 18, Conc. 14, geographic Township of Monmouth

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