Existing Small (Nonconforming) Lots. Chapter 117 ensures that a parcel (lot) in existence prior to the adoption of zoning may be developed even if it no longer complies with minimum lot size standards. A municipality, however, may prohibit development of a lot that is less than one eighth acre in area, or has a width or depth dimension of less than 40 feet. Contiguous small lots in common ownership that do not have functioning wastewater systems and potable water supplies (as defined in Chapter 117) are no longer required to be merged. A municipality may require such merger, as provided in its bylaw, in accordance with specified statutory

criteria [§4412(2)]. **§ 4412. Required provisions and prohibited effects** Existing small lots

(2) Existing small lots. Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw.

(A) A municipality may prohibit development of a lot if either of the following applies:

(i) the lot is less than one-eighth acre in area; or

(ii) the lot has a width or depth dimension of less than 40 feet.

(B) The bylaw may provide that if an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

(i) The lots are conveyed in their preexisting, nonconforming configuration.

(ii) On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.

(iii) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.

(iv) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.

(C) Nothing in this subdivision (2) shall be construed to prohibit a bylaw that is less restrictive of development of existing small lots.