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**The Laws of Creating an Eruv**  
**Part IV: Issues Once the Eruv is Erected**

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After constructing an *eruv*, three major issues remain: *karpeif*, *eruv chatzeirot*, and *sechirat reshut*.

***Karpeif***

A potentially major obstacle in creating a viable community *eruv* is the existence of a *karpeif* within the enclosed area. A *karpeif* is an area at least 100 *amot* (between 150 and 200 feet) by 50 *amot* (between 75 and 100 feet) that is not used for human habitation or other human needs.<sup>1</sup> Accordingly, sports fields, playgrounds, and lakes used for boating do not constitute *karpeifiyot*. *Chazal* forbade carrying within a *karpeif* even if it is located within a *reshut hayachid* created by *mechitzot* or *tzurot hapetach*. This is because the *reshut hayachid* must be encompassed by *mechitzot* or *tzurot hapetach* that were built for the purpose of **human habitation** (*mukaf ledirah*). A wall or *tzurat hapetach* built to surround an uninhabited forest is not built for the sake of human habitation, so it does not permit people to carry on *Shabbat* within that forest.

Moreover, the presence of a *karpeif* forbids carrying in the entire enclosed area surrounding it, because an area's walls or *tzurot hapetach* must be erected purely for human habitation. If they also include a *karpeif*, however, they are erected for an area that is not entirely fit for human habitation.<sup>2</sup> This author's

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1. See *Erwin* 23a-b and *Shulchan Aruch, Orach Chaim* 358.

2. For an analysis of the *karpeif*'s impact on the walls, see *Biur Halachah* (358:9 s.v. *Hazra'im*).

experience indicates that this issue arises much more often in suburban and rural areas than in urban areas, as an urban setting contains fewer undeveloped areas. The *Chazon Ish* (O.C. 88:25) writes that the only way to prevent a *karpeif* from invalidating the rest of the *eruv's* area is to encompass the *karpeif* with either *mechitzot* or *tzurot hapetach*, thereby excluding it from the *eruv*. The community is then *mukaf ledirah*, while the uninhabited *karpeif* is severed from it.<sup>3</sup>

The lenient positions of some authorities might also solve this problem. The *Biur Halachah* (358:9 s.v. *Aval*) cites one such approach from the *Devar Shmuel*. He rules that if a *karpeif* is situated within a city and is only a small part of the city, it does not prohibit carrying within that area.<sup>4</sup> The *Devar Shmuel* reasons that, in such a situation, the *karpeif* is negligible compared to the rest of the city and may be ignored.<sup>5</sup>

Halachic authorities have reacted to the *Devar Shmuel's* leniency with mixed feelings. On one hand, the *Chazon Ish* (cited earlier) rejects this approach, as he sees no reason for a *karpeif* within a city to differ from one in a more rural area. The *Biur Halachah* expresses serious reservations concerning this leniency, but he seems to accept the conclusion of the *Chacham Tzvi*, that the *Devar Shmuel's* opinion may be followed where it is impossible to construct an *eruv* otherwise.

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3. Also see the *Biur Halachah* (358:9 s.v. *Aval*).

4. Of course, the *Devar Shmuel's* leniency does not apply to *eruvim* that enclose very large forest areas, since his entire reason is that the *karpeif* is negligible compared to the inhabited area. When this author sought to construct an *eruv* in a certain summer community in Connecticut, Rav Hershel Schachter ruled that the *eruv* could not be built, because the *tzurot hapetach* would have had to encompass huge tracts of forest. Rav Schachter also did not permit relying on the extraordinarily lenient views of *Teshuvot Divrei Malkiel* (cited in *Melamed Lebo'il* 1:65) and *Teshuvot Even Yekara* (O.C. 16), which would have facilitated constructing the *eruv*, as these views are not accepted by most halachic authorities.

5. Although the *Devar Shmuel* speaks of a city surrounded by walls, his ruling appears to apply equally to a city surrounded by *tzurot hapetach*; see *Melamed Lebo'il* (1:65).

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This issue remains controversial, as some communities rely on the *Devar Shmuel* while others do not. A number of Israeli rabbis have told this author that the practice in Israel is to follow the lenient opinion of the *Devar Shmuel* (except in Bnei Brak, where the *Chazon Ish* resided). This is hardly surprising, since *eruv* in Israel often encompass entire cities.<sup>6</sup> It is exceedingly difficult to exclude every *karpeif* within Israel's growing cities. Hence, in keeping with the approach of the *Biur Halachah*, they rely on the *Devar Shmuel's* lenient ruling.

A number of authorities adopt a compromise approach that distinguishes between different types of *karpeifiyot* (plural of *karpeif*).<sup>7</sup> If a *karpeif* beautifies the city, it does not forbid carrying. If, however, humans in no way benefit from the area, it must be excluded from the *eruv*.

### ***Eruv Chatzeirot***

Even after a proper community *eruv* has been constructed and the area encompassed is thereby rendered a *reshut hayachid*, one may still not carry within it on *Shabbat*. Despite the fact that it is biblically permitted to carry from one *reshut hayachid* (one's house) to another (in our case, the outside area enclosed by the *eruv*), the Rabbis prohibited this in many cases. Similarly, this rabbinical prohibition often precludes carrying from one household to another even within the same building.<sup>8</sup> For

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6. For example, according to information received from the Jerusalem Rabbinat in 1991, the circumference of Jerusalem's *eruv* is approximately 110 kilometers.

7. See *Orchot Chaim* (Chapter 358), *Teshuvot Melameid Lebo'il* (1:65), and *Teshuvot Har Tzvi* (*Orach Chaim* vol. 2, *Harari Vasadeh* p. 249).

8. If there is only one Jewish resident in the building, this prohibition does not apply (*Shulchan Aruch, Orach Chaim* 382:1). It also does not apply if all of the residents eat together or if the landlord stores property in all of the residences (*Shulchan Aruch, Orach Chaim* 370:2,4). Rav Moshe Feinstein (*Teshuvot Igrot Moshe*, O.C. 1:141) rules that a landlord who rents out items (such as stoves or refrigerators) with every apartment is considering to be

example, this prohibition applies to an apartment building with at least two observant<sup>9</sup> families. In such situations, it is required to make an *eruv chatzeirot* (referred to by *Chazal* as an *eruv*) in order to permit carrying.

An *eruv chatzeirot* (literally "mixing the courtyards") is consists of every household in the *reshut hayachid* contributing some bread to the collective group of households. The bread is stored in one of the houses within the encompassed area. The Halachah then views the participants as if they all live in that one house, removing even the rabbinical prohibition against carrying (see *Shulchan Aruch*, O.C. 366:1).

The Talmud (*Shabbat* 14b) records that King Shlomo instituted this requirement, and a heavenly voice acknowledged the profound wisdom in it. The reason for this rule, as explained

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"storing" his property with the tenants, so no *eruv chatzeirot* is needed. On the other hand, the *Chazon Ish* (O.C. 92) and *Chelkat Yaakov* (1:207) require an *eruv chatzeirot* if the landlord's property in the apartments is rented to the tenants. The *Devar Avraham* (3:30) and Rav Yosef Dov Soloveitchik (cited in *Nefesh Harav* p. 170) also favor this opinion, although the *Devar Avraham* concludes that he is unsure of the Halachah in such a case. See *The Contemporary Eruv* (p. 110 note 231) for a defense of Rav Moshe's view. Rav Hershel Schachter (in a lecture at Yeshiva University) reported that Rav Moshe encouraged those who do make an *eruv chatzeirot* in such a situation to refrain from reciting a blessing, since he believed that this *eruv* is unnecessary. The *Chelkat Yaakov* also argues that the landlord's ability to unite all of the apartments by storing property in all of them only applies to observant Jewish landlords. Regarding non-observant and non-Jewish landlords, he claims that *sechirat reshut* must be performed even if the landlord stores his personal property in all of the apartments. Other authorities do not appear to accept this qualification.

9. If there are flagrantly non-observant Jews, *sechirat reshut* must be performed. We will discuss this procedure later in this chapter. The status of non-observant Jews today is somewhat unclear, as most of them desecrate *Shabbat* out of ignorance, not out of contemptuousness. See *Eruvin* (69a) and *Chazon Ish* (O.C. 87:14) for a discussion of this phenomenon.

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by the Rambam (*Hilchot Eruvin* 1:4), is that otherwise people would become confused about the laws of carrying. The process of the *eruv chatzeirot* is designed to familiarize the community with the laws of carrying. This goal seems to be a reason for the time-honored practice of storing the *eruv chatzeirot* in the synagogue (see Rama, O.C. 366:3). Rav Elazar Meyer Teitz told this author that his father, Rav Pinchas Teitz (of Elizabeth, New Jersey), prominently displayed the *eruv* in a place within the synagogue where it was easily seen, noting that this was commonly done in Europe. Another advantage of storing the *eruv* in the synagogue is that community members have full access to the *eruv*, which is an important requirement (see Rav Moshe Shternbach's *Teshuvot Vehanhagot* 1:250).

In practice, we do not require every household in a *reshut hayachid* to give some bread for the purpose of the *eruv*. Instead, everyone in the community is granted a portion of the *eruv* by the process known as *zachin le'adam shelo befanav*, acquiring something on behalf of another person (see *Shulchan Aruch, Orach Chaim* 366:9-10,15). This is accomplished by one person handing another the *eruv* food<sup>10</sup> and the second person lifting the *eruv* into the air.<sup>11</sup> It is lifted with the intention of acquiring the *eruv* on behalf of all present and future residents of the area encompassed by the *eruv*.

A blessing ("*al mitzvat eruv*") is recited prior to the procedure of acquiring the *eruv* on behalf of the community.<sup>12</sup> Then, the formula of "*behadein eruva*" is recited, explaining the *eruv's* intended purpose (see *Shulchan Aruch, Orach Chaim* 366:15).

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10. The practice is to use a box or two of kosher-for-Pesach *matzah*; see Rama, O.C. 368:5.

11. There is a dispute regarding whether it must be lifted one *tefach* (3-4 inches) or 3 *tefachim*; see *Shulchan Aruch, Choshen Mishpat* 198:2 and *Mishnah Berurah* 366:51.

12. For an explanation of why a blessing is recited on an *eruv chatzeirot*, see *Teshuvot Chatam Sofer* (O.C. 99).

### ***Sechirat Reshut***

The procedure of *eruv chatzeirot* is effective solely for Jews who believe in the Oral Law and thus believe in the efficacy of an *eruv*. However, one must rent the apartments, homes, and common areas (such as streets and parks) from every non-Jewish and non-believing Jewish resident of the *reshut hayachid*. This procedure is known as *sechirat reshut*.

Renting every non-Jewish house within the *tzurot hapetach* is a virtually impossible task to accomplish in a community *eruv*. Fortunately, Halachah provides an alternative method of performing the *sechirat reshut* (see *Shulchan Aruch*, O.C. 391:1). The Jewish community may rent the entire enclosed area from the head of the city (*sar ha'ir*) or from one to whom this leader has delegated his authority.<sup>13</sup> The *Shulchan Aruch* rules that the head of the city has the halachic ability to rent out not just the public property within the *tzurot hapetach*, but also the homes of its residents. His ability to rent out private homes stems from his right to quarter soldiers and military equipment in those homes during a time of war without consulting the residents.<sup>14</sup> The United States Constitution (Amendment 3) forbids quartering soldiers under most circumstances. Nonetheless, the *Tikvat Zechariah* (pp. 39-40, cited in *The Contemporary Eruv* pp. 115-117), discussing the possibility of constructing an *eruv* in St. Louis in the 1890s, rules that a city government in America does have the right to lease private homes for *sechirat reshut*. He reasons that local governments may search and inspect private homes, in addition to maintaining the right to expropriate private land for public use (eminent domain).<sup>15</sup>

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13. A representative may be used even if this representative knows he is acting against the will of the non-Jewish authority (*Shulchan Aruch*, O.C. 382:11). The *Shulchan Aruch* also discusses who qualifies as a representative.

14. The *Biur Halachah* (391 s.v. *Bameh Devarim Amurim*) adds that the leader must also be capable of deciding when to wage war. Otherwise, his power to quarter troops is irrelevant during times of peace.

15. Rav Hershel Schachter (in a lecture at Yeshiva University) stated that

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Others, including Rav Hershel Schachter (in a lecture at Yeshiva University), strongly question this reasoning. They point out that the right of eminent domain is rarely used and is quite difficult to apply. According to their opinion, it is forbidden to carry on *Shabbat* (even within an *eruv*) from one's home to the private property of a non-Jew or non-observant Jew.<sup>16</sup> Nonetheless, they acknowledge that the mayor and police do possess the authority to close the **public** areas of the city. One should consult his rabbi regarding which opinion to follow.

The *Netivot Shabbat* (Chapter 37, note 93) notes that all would agree that the mayor and police cannot rent out a foreign embassy located within a city, as international law recognizes it as sovereign territory of the nation it represents. Thus, it would be forbidden to carry into a foreign embassy even in an area encompassed by an *eruv*, such as Jerusalem or Washington, on *Shabbat*.

It is often unclear who is the appropriate authority to lease the area from (see *Mishnah Berurah* 391:18). In order to avoid this problem, rabbis usually perform *sechirat reshut* from a number of local authorities, such as the mayor and the police chief. A particularly interesting situation occurred when Rav Barry Freundel of Congregation Keshet Israel (Washington, D.C.)

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Rav Moshe Feinstein also permitted performing *sechirat reshut* from a democratically elected mayor based on similar reasoning. See *Chazon Ish* (O.C. 82:9) for an alternative explanation of why *sechirat reshut* may be done from democratic governments. Also see *Teshuvot Minchat Shlomo* (2:35:24), who writes that the *sechirat reshut* performed today "merits investigation" ("*yeish ladun*").

16. *Netivot Shabbat* (36:27). One could question why the presence of privately owned non-Jewish property inside the *eruv* does not affect the rest of the area. After all, we have already mentioned (regarding a *karpeif*) that a place where carrying is forbidden also prohibits carrying in the rest of the *eruv*, unless special *tzurot hapetach* are erected to separate the forbidden area. While walls enclose the houses themselves, their unenclosed front lawns should invalidate the *eruv*. See *The Contemporary Eruv* (p. 115).

established an *eruv* for his community. Due to the ambiguous nature of Washington's municipal authorities, Rav Freundel told this author that he performed *sechirat reshut* from United States President George Bush<sup>17</sup> and Washington Mayor Marion Berry, along with the heads of the police and city council.

When expanding a community *eruv*, care must be taken to ensure that the *sechirat reshut* includes the expanded areas. In addition, *sechirat reshut* should not be allowed to expire.<sup>18</sup> Many authorities require renewing *sechirat reshut* when the non-Jewish official from whom it was performed leaves his office. The *Netivot Shabbat* (37:28 and notes 96-99) cites these authorities, but he argues that *sechirat reshut* remains effective in democracies even when the government changes. He reasons that a newly elected government is bound by agreements made by its predecessors. In practice, Jewish communities today do not renew *sechirat reshut* every time the town government changes (also see *Har Tzvi, Orach Chaim* 17).

### **Conclusion**

We hope that this discussion of the laws of *eruv* has shown how this area of Halachah is particularly complex. It should be emphasized that we have reviewed only some of these complicated laws. For further discussion of them, see *Netivot Shabbat, The Contemporary Eruv*, Rav Shimon Eider's *Halachot of the Eruv*, Rav Elimelech Lange's *Hilchot Eruvin*, and Rav Hershel Schachter's essay in *The Journal of Halacha and Contemporary Society* (5:5-24). When dealing with practical questions in the laws of *eruv*, it is important to consult rabbis who have extensive experience in this field.

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17. Of course, had it been difficult to reach the President, *sechirat reshut* could have been done from a representative of his.

18. For a discussion of how long a *sechirat reshut* may last, see the *Mishnah Berurah* (382:48) and *Netivot Shabbat* (Chapter 37:28 and note 20).