

Cherokee Civic Club
5300 BKS of M. NDAL/Cherokee

Renewed 9.00.93
up to 9.00.03
to be renewed

#117505 B

REVOCATION OF RESTRICTIONS

RECORDED DEED RECORDS: VOL. 3895 Pg 425

DATED: January 3, 1959

FILED: Dec. 31, 1959 at 4-10 A.M.

FROM: Joyce Cox, et als

TO: - - -

THE STATE OF TEXAS:
COUNTY OF HARRIS:

WHEREAS, H. B. Masterson, as the then owner of that certain tract or parcel of land out of Original Lot No. five (5) of the Obedience Smith Survey, Harris County, Texas, did subdivide and plat (including dedication of the streets, alleys and essements) such tract or parcel of land as an addition to the City of Houston Harris County Texas known and designated as Cherokee Addition, according to the map or plat thereof of record in volume 538 page 442 Deed records of Harris County, Texas and did further execute and file for record that certain revised map or plat of Cherokee Addition new of record in Volume 655 page 298 Deed Records of Harris County Texas, Reference is here made to both of such maps or plats and to the respective records thereof for all purposes, Such addition, according to the original plat thereof as revised by the revised plat thereof, is hereinafter called Cherokee Addition.

WHEREAS, in accordance with and as a result to such original plat and such revised plat Cherokee Addition was divided into blocks and lots (with intervening streets and alleys) of such size, location and arrangement as to evidence and carry into effect the declared design and intention of M. B. Masterson, as the owner thereof, to establish, fix and create Cherokee Addition as a high class residential addition and area with appropriate covenants and restrictions to effectuate such result.

WHEREAS, the present owners of Lots in Cherokee Addition have erected valuable residences upon the property in reliance upon the existence, effectiveness and uniformity of covenants and restrictions controlling the residential character of Cherokee Addition.

WHEREAS, while the said H. B. Masterson did, in fact, adopt a uniform plan of development and restrictions upon such Cherokee Addition, he did not promulgate and impose by a single instrument the covenants and restrictions applicable thereto, but to the contrary, such uniform plan was effected by H. B. Masterson and his assigns by the incorporation in the various deeds to lot purchasers the covenants and restrictions applicable thereto.

WHEREAS, the expiration dates of the covenants and restrictions imposed upon various of the lots or parcels of land out of Cherokee Addition by the deed, as aforesaid, were not uniform and through oversight such covenants and restrictions were omitted from a small number of such deeds.

WHEREAS, by instrument dated April 24, 1941, and of record in Volume 1210 page 13 Deed Records of Harris County Texas the then owners of the lots or parcels of land in Cherokee Addition which were unrestricted or upon which the restrictions would have otherwise expired during the year 1943, did impose upon the lots or parcels owned and held by such parties the covenants and restrictions

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restrictions would have otherwise expired during the year 1943, did impose upon the lots or parcels owned and held by such parties the covenants and restrictions applicable to other lots in Cherokee Addition for a period of twenty-five (25) years from the date of such instrument with provisions for renewal in the manner prescribed therein.

WHEREAS, the undersigned owners-being the owners of lots or parcels of land as hereinafter set forth opposite their respective names-desire to nullify and revoke all covenants and restrictions upon the lands situated in Cherokee Addition and further, for the purpose of creating and carrying out a more uniform plan to control and govern hereafter the use and occupancy of the lands situated within Cherokee Addition, to restrict the use and occupancy of such lands in accordance with the covenants and restrictions hereinafter set forth.

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NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned owners,-being the following parties opposite the respective names of whom the lots or parcels of land owned by each is set out as follows to-wit:

NAME	LOT OR PARCEL OWNED
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Various signatures on various lots and blocks - - -

Dott Sprong Whitsitt and husband Dr. J. J. Whitsitt, and Cordelia Jane Reid and husband, Michael A. Reid	South 75 feet Lot 3 in Block 1
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and being all of the owners of the lands comprising Cherokee Addition-in consideration of the premises and of the mutual advantages accruing and to accrue to us and each of us, as owners of the lands comprising Cherokee Addition, do hereby covenant and agree one with the other that:

I. REVOCATION OF EXISTING RESTRICTIONS: All covenants and restrictions heretofore existing applicable to any lands situated within Cherokee Addition, including, without limitation, the following:

(a) All covenants and restrictions created in deeds or other instruments of record executed by H. B. Masterson or his assigns, as developer of Cherokee Addition, and any amendments thereto of record.

(b) All covenants and restrictions attempted to be imposed by that certain instrument dated November 30, 1938, and of record in volume 1960 page 424 Deed records of Harris County Texas; and

(c) All covenants and restrictions imposed by that certain instrument dated April 24, 1941, and of record in volume 1210 page 13 Deed records of Harris County, Texas, (but excluding any and all dedications and restrictions of record pertaining to the one (1) foot strip on the west side of the alley along the west side of Cherokee Addition and the one (1) foot strip on the east side of the alley along the east side of Cherokee Addition-each of which strips extends from Bissonnet Street to Sunset Boulevard) be, and the same are hereby nullified and revoked and shall, effective as of this date, be of no further force and effect.

II. RELEASE OF ACTIONS BASED ON HERETOFORE EXISTING RESTRICTIONS:

That all claims, demands and causes of action (whether in the nature of a right to injunctive relief or otherwise) held by any owner of any lot or parcel of land in Cherokee Addition against any other lot or parcel owner in such Cherokee Addition by reason of, or predicated upon the existence, validity or enforceability, of, the heretofore existing covenants and restrictions are hereby released and quitclaimed unto the latter, and unto the latter's heirs and assigns, so that no action may hereafter, in any way, be brought or maintained thereon. Nothing in this paragraph shall, however, in any way affect the validity and the enforceability of the covenants and restrictions hereinafter imposed upon such Cherokee Addition to be effective as of the date of the last acknowledgment to be taken on this instrument.

III. CREATION AND IMPOSITION OF NEW COVENANTS AND RESTRICTIONS:

That for the purpose of creating and carrying out a uniform plan to control and govern effective this date the use and occupancy of the lands situated within Cherokee Addition in order to assure that such Cherokee Addition shall be, and shall continue as, a high class residential district with the attendant effects that the value and utility of the various lots and parcels situated therein for residential purposes shall be preserved and protected and the enjoyment of the present owners and their successors-in-interest of such lots or parcels of land

residential purposes shall be preserved and protected and the enjoyment of the present owners and their successors-in-interest of such lots or parcels of land as sites for high class residences shall be maintained the following covenants and restrictions are hereby imposed upon Cherokee Addition and unto each and every lot or parcel of land situated therein:

(a) Lots or building sites in Cherokee Addition shall be used for residence purposes only.

(b) The term "residence purposes" as used herein shall be held and construed to exclude hospitals, duplex houses, apartment houses, and rest homes, convalescence homes and similar institutions, whether operated for co-operative, charitable or commercial purposes, and to exclude any commercial and professional uses; and any such usage is hereby expressly prohibited whether or not such use is made simultaneously with, and in addition to, residential use of the property.

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(c) Without in any way limiting the covenant and restriction embodied in subparagraphs (a) and (b) hereof, no store or business house or structure for commercial use, including by way of illustration and not by way of limitations, apartment houses, hospitals, duplex houses, service stations, retail stores, warehouses, junk yards, liquor and/or beer (or other spirituous, vinous or malt liquors or intoxicants) stores, shall be erected or permitted in Cherokee Addition.

(d) The word "house" or the word "residence" as used herein with reference to building lines shall include galleries, porches, porte cocheres, and every other permanent part of the improvements, except roofs, front entrances, platforms, steps or other appurtenances to the main structure and the coverings above same.

(e) No garage or outbuilding shall be used as a residence or living quarters, except by bona fide servants engaged on the premises, or members of the owner's family or non-paying guests of the owner or his family.

(f) No fence or wall shall be placed on any lot or building site within Cherokee Addition nearer to the street upon which such lot or building site faces than is permitted for the house therein; provided, however, a fence or wall may be maintained along the north sides of the following lots, to-wit:

Lot No. 1 in Block No. 1, Lots Nos. 1 and 16 in Block No. 2 and Lot No. 1 in Block No. 3, and along the south lines of the following lots to-wit:

Lots No. 8 and 9 in Block No. 2, Lot No. 8 in Block No. 1, and Lot No. 8 in Block No. 3, for the entire distance from the rear property line thereof to the front property line thereof, or along any part of such sites.

(g) For the purposes hereof, all lots in Block No. 1 and Lots Nos. 1 through 8, inclusive, in Block No. 2, shall be deemed to face on Cherokee Street and all lots in Block No. 3 and Lots Nos. 9 through 16, inclusive, in Block No. 2 shall be deemed to face on Mandell Boulevard. No residence shall be constructed on any lot or building site unless the same fronts upon the street as specified hereinabove.

(h) No residence containing less than eighteen hundred (1800) square feet of living area (exclusive of open porches, breezeways, garages (whether attached to or detached from the main residence), servant quarters (unless an integral part of the main residence), galleries, and porte cocheres) shall be erected or constructed upon any lot or building site within Cherokee Addition. The exterior of any main residence building erected in Cherokee Addition shall be of a minimum of sixty per cent (60%) brick or masonry. Nothing in this subparagraph (h) shall apply to any existing structure in Cherokee Addition nor to the remodeling, repair or refurnishing thereof. In no event shall a pre-built or existing house or other permanent structure be moved upon any lot or building site in Cherokee Addition.

(i) Nor the purpose of these covenants and restrictions, a "building site" may consist of either one (1) lot or part or parts of one (1) lot or more adjoining lots; provided, however, in the latter event the frontage of the part of a lot or the combined frontage of the parts of adjoining lots shall equal or exceed the minimum width setout in subparagraph (j) hereof the same shall extend the entire depth of the lots according to the revised plat of Cherokee Addition. Not more than one residence shall be constructed on any lot or building site.

(j) No residence or other improvements shall be constructed or permitted on any building site fronting on Mandell Boulevard having a width of less than 105 feet measured at the front building line nor on any building site fronting on Cherokee Street having a width of less than 70 feet measured at the front building line.

(k) For the purposes of these covenants and restrictions, if a garage, servants' house or other outbuilding is made an integral part of the residence, or is connected thereto, or both, the setback distances from the front and side lines of the building site hereinafter prescribed shall automatically become identical with those stipulated for the residence itself, but the front line of any such

with those stipulated for the residence itself, but the front line of any such garage, servants' house or other outbuilding shall not extend in front of the front of the residence to which it is connected or of which it is an integral part. If a garage, servants' house or other outbuilding either is not an integral part of the residence or is not connected to the residence, such garage, servants' house or other outbuilding shall be located to the rear of the residence the rear wall of such garage, servants' house or other outbuilding shall not be more than ten (10) feet nor less than two (2) feet from the rear line of the building site and shall not be nearer than six (6) feet to any side line of the building site. And subject to such matters, no residence (or any other structure except as provided in subparagraph (f) hereof and except as provided in the preceding sentence hereof) shall be constructed, erected or maintained:

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FRONT BUILDING LINE: (a) Nearer than thirty-five (35) feet to the front property line of building sites facing on Cherokee Street; and
(b) Nearer than thirty (30) feet to the front property line of building sites facing on Mandell Boulevard.

SIDE BUILDING LINE: (a) Nearer than fifteen (15) feet to either side property line of the building site if the building is 105 feet or more in width measured at the front building line; and

(b) Nearer than ten (10) feet to either side property line of the building site if the building site is less than 105 feet in width measured at the front building line.

(l) No sign, billboards, posters, or advertising devices of any character (except one sign not exceeding three feet in width nor two feet in height advertising a residence for sale or rent) shall be permitted in Cherokee Addition.

(m) No cattle, hogs or other animals, rabbits or poultry (except dogs, cats, and other domestic pets owned for non-commercial use) shall be permitted in Cherokee Addition.

(n) No privy, cesspool, septic tank or disposal plant shall be erected or maintained in Cherokee Addition.

(o) No building material of any kind or character shall be placed or stored upon any lot or building site until the owner is ready to commence improvements.

(p) It is understood and agreed that each of the covenants and restrictions herein contained is severable, and if any one or more of such restrictions shall be held to be invalid or for any reason is not enforced, none of the other covenants and restrictions shall be affected or impaired thereby, but shall remain in full force and effect.

(q) Each and all of the covenants and restrictions hereinabove set forth shall be deemed to constitute covenants running with the land and shall inure to the benefit of and be binding upon each and all of the owners of lands within Cherokee Addition, and their respective heirs, successors and assigns, and any one of such parties shall have the right to enforce such covenants and restrictions using whatever legal method (in the nature of injunctive relief or otherwise) that may be deemed advisable.

(r) Any one or more lots or building sites in Cherokee Addition may be released at any time or from time to time from the covenants and restrictions herein contained by an appropriate agreement or agreements in writing to such effected executed by the then owners of not less than sixty per cent (60%) of the square foot area contained in all lots in Cherokee Addition then subject to all or part of these covenants and restrictions and filed for record in the office of the county clerk of Harris County, Texas.

(s) These covenants and restrictions (except as released as to any lots or building sites under subparagraph (r) hereof) shall be effective until December 31, 1983, and may be, in whole or in part, extended from time to time thereafter for successive periods of not more than ten (10) years each (such ten (10) year period dating from the date on which these covenants and restrictions and extension) by the then owners' (of a majority of the square foot area contained in all lots or building sites in Cherokee Addition then subject to these covenants and restrictions) executing and filing for record in the office of the County Clerk of Harris County, Texas, prior to the date on which these covenants and restrictions would otherwise terminate, an appropriate agreement or agreements in writing extending all or part of these covenants and restrictions as to the lots or building sites then subject hereto.

(t) For the purposes of subparagraphs (r) and (s) hereof, the owners of lots then subject to these covenants and restrictions shall be determined as of the date the release or extension, as the case may be, is filed for record in the office of the County Clerk of Harris County, Texas.

SUBORDINATION OF LIENS: THE following (being owners and holders of lien indebtednesses of record upon the following respective lots, as follows:

NAME	LOT AFFECTED BY LIEN
The National Bank of Commerce	North 100 feet of Lot 1, in Block 1
Pacific Mutual Life Insurance Company	South 35 feet of Lot 5; North 35 feet of Lot 6, in Block 1
University Savings and Loan Association	Lot 7, in Block 1
Equitable Life Assurance Society	Lot 8, in Block 1
Farm and Home Savings & Loan	Lot 1 and the North 10 feet of Lot 2, in Block 2
Fafael R. Davila and wife, Bertha Davila	Block 2

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Penn Mutual Life Insurance Company & American General Investment Corporation	South 35 feet of Lot 3 and North 35 feet of Lot 4, in Block 2
American General Life Insurance Company	South 95 feet of Lot 5, in Block 2
River Oaks State Bank	Lot 2 in Block 3
American General Life Insurance Company	Lot 13 in Block 2
Gibraltar Savings & Bldg. Association	Lot 4 in Block 3
Washington County State Bank, Brenham, Texas	Lot 7 and Lot 8 in Block 3

hereinafter called "Mortgagees") for and in consideration of the sum of One dollar (\$1.00) to each Mortgagee paid, and the further consideration of the benefits derived by each Mortgagee by reason of the protection to the value of the security of such Mortgagee, do hereby agree that the liens held by Mortgagees and by each Mortgagee (as more fully disclosed of record in Harris County, Texas, to which records reference is here made) are subject to the terms, agreements, covenants, and restrictions as set out in this instrument to the same extent as if this instrument had been executed, acknowledged and filed for record prior to the inception of the lien held by such Mortgagees and each of them, and that in the event of foreclosure of the lien held by any of the Mortgagees, the rights of the purchaser upon such foreclosure shall be subject to the provisions, agreements, covenants and restrictions herein set out, with the express understanding that nothing herein shall other affect the lien held by the Mortgagees, which liens are continued in full force and effect, except as subordinated to this instrument.

EXECUTION: It is expressly understood, stipulated and agreed that this instrument may be executed in a number of counterpart originals and any counterpart which may be executed by any owner or mortgagee shall be binding and effective upon such owner or mortgagee, whether or not all owners and mortgagees execute a counterpart hereof, and the counterpart executed by such owner or mortgagee may be filed for record and shall be binding upon the parcel (owned by such owner or against which such mortgagee hold liens) and each and every successor-in-interest of such owner or mortgagee-provided, however, this instrument (or any counterpart hereof) shall become null and void and not thereafter be binding upon or inure to the benefit of any person whomsoever if on December 31, 1959, at 5:00 O'clock P.M. there shall have not been theretofore filed for record in the Office of the County Clerk of Harris County, Texas counterpart originals duly executed by all of the owners and mortgagees (or if the ownership of any parcel becomes vested of record in any person other than an owner herein named, or if any mortgage is vested of record in an entity other than a mortgagee herein named, such successor owned or successor mortgagee may execute a counterpart hereof in lieu of the predecessor owner or mortgagee, or if a mortgage indebtedness be discharged and released prior to such date and hour, the execution by the mortgagee (holder of such indebtedness) shall not be required), but no joinder or execution by a successor owner or successor mortgagee shall be required if such success mortgagee shall be required if such successor owner's (or successor mortgagee's) predecessor in title shall have executed a counterpart copy hereof.

IN WITNESS WHEREOF this instrument is executed as of January 30, 1959.

Various signatures- - -

Dr. J. H. Whitsitt
Dott Sorona Whitsitt.
