



COMMUNITY BOARD ELEVEN

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Nilsa Orama
Chair

Angel D. Mescaín
District Manager

July 19, 2021

Marisa Lago
Director
New York City Department of City Planning
120 Broadway, 31st Floor
New York, NY 10271

Re: Recommendation on Application # 210382 ZRY- Health and Fitness Citywide Text Amendment

Dear Director Lago,

Community Board 11 (CB11) appreciates the opportunity to review and comment on the Department of City Planning's proposed Health and Fitness Citywide Text Amendment.

The New York City Department of City Planning (DCP) proposes to modify regulations related to gyms, spas, licensed massage therapy, and other fitness facilities defined as "Physical Culture Establishments." The text amendment would remove the requirement for these facilities to receive a special permit from the Board of Standards and Appeals. The proposed zoning text amendment would affect every community district within the City, since it would impact all zoning districts except R1 and R2 districts.

Description of the Proposed Action

The proposed zoning text amendment would remove the BSA special permit for PCEs (ZR 73-36) and add uses currently subject to this special permit to Use Groups that are permitted as-of-right in certain zoning districts. The proposed action would categorize all facilities dedicated to physical fitness and health, limited to 10,000 square feet in floor area per establishment, as Use Group 6 and Use Group 14. This includes gyms, spas, and other facilities with activities designed to promote physical fitness. These uses will be permitted as-of-right in all commercial and manufacturing districts. The action would categorize all facilities dedicated to physical fitness and health, with no limitation in floor area per establishment, as Use Group 9. This includes gyms, spas, and other facilities with activities designed to promote physical fitness. These uses will be permitted as-of-right in C2, C4, C5, C6, and C8 districts; M1, M2, and M3 districts; and high-density C1 districts (C1-8, C1-9, and C1 overlays mapped with R9 or R10 districts). Distinguishing between facilities that are limited in floor area to 10,000 square feet and those that are unlimited in size is consistent with existing regulations in the New York City ZR for other retail and service establishments.

The proposed action would distinguish between establishments containing higher intensity uses that have a greater potential to generate noise and those that are likely to have fewer objectionable effects. Higher intensity uses, such as gyms involving the use of exercise machines and weights, would be subject to additional noise attenuation requirements and enclosure criteria. These uses would be required to be in completely enclosed buildings and would have to verify to the Department of Buildings prior to the issuance of a Certificate of Occupancy that the use is designed according to national standards for noise and vibration control to meet the NYC Noise Code. These additional requirements would apply to mixed-use buildings in commercial and MX districts. Other health and fitness uses, such as yoga studios and therapeutic services, would not be subject to these requirements prior to operating, but would also be subject to the NYC Noise Code.

The proposed zoning text amendment would categorize licensed massage therapy as ambulatory health care in Use Group 4A and Use Group 6B (health care office). This would treat licensed massage therapy studios in the same manner as other health care facilities, including facilities where massage therapy already occurs, such as physical therapy offices and long-term care facilities. Licensed massage therapy studios will be permitted in residence districts other than R1 and R2, as well as all commercial, and manufacturing districts.

The proposed action would also move the definition of Adult Physical Culture Establishment to a new definition called "Unlicensed physical treatment establishments." The existing definition prohibits, in all zoning districts, facilities that offer "services, massages, body rubs, alcohol rubs, baths, or other similar treatment, by members of the opposite sex" if these services are provided by people who are not licensed massage therapists. Unlicensed massage therapy is an illegal practice outside of zoning. Under the proposal, unlicensed massage therapy would not be listed in any Use Group and would continue to not be permitted in any zoning district.

To create a consistent zoning framework citywide, sections of special districts that currently permit PCEs as-of-right in certain zoning districts would be removed to ensure that gyms, spas, massage, and other related facilities citywide would be governed by the framework described in this document.

Community Board Recommendation

Community Board 11 met on July 13, 2021 and voted to recommend that this application be approved.

Full Board Vote: In Favor: 27; Opposed: 2; Abstentions: 0; Present not Voting: 0

If you have any questions regarding our recommendation, please contact Angel Mescaín, District Manager, at 212-831-8929 or amescain@cb11m.org.

Sincerely,



Nilsa Orama
Chair

cc: Hon. Gale A. Brewer, Manhattan Borough President (via email)
Hon. Diana Ayala, New York City Council (via email)
Hon. Bill Perkins, New York City Council (via email)
Hon. Ben Kallos, New York City Council (via email)
Hon. Keith Powers, New York City Council (via email)
Hon. Brian Benjamin, New York State Senate (via email)
Hon. Jose M. Serrano, New York State Senate (via email)
Hon. Robert J. Rodriguez, New York State Assembly (via email)
Hon. Inez Dickens, New York State Assembly (via email)
Elsie Encarnacion, Community Board 11 (via email)
Judith Febbraro, Community Board 11 (via email)