

# MIAMI BEACH

## COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee Members

FROM: Eric Carpenter, City Manager

DATE: May 8, 2025

TITLE: DISCUSS POTENTIALLY REQUIRING COMMERCIAL CHARTER VESSEL OPERATORS TO PROVIDE SANITATION/PUMP-OUT LOGS EVIDENCING COMPLIANCE WITH APPLICABLE SANITATION LAWS.

### **RECOMMENDATION**

The Administration recommends maintaining current practices with regards to vessel pumpouts.

### **BACKGROUND/HISTORY**

At the February 21, 2024 City Commission meeting, at the request of Commissioner Tanya K. Bhatt and later co-sponsored by Commissioner Kristen Rosen Gonzalez, the Mayor and City Commission approved a referral (C4 J) to the Land Use and Sustainability Committee ("LUSC") to discuss potentially requiring commercial charter vessel operators and houseboats to provide sanitation/pump-out logs evidencing compliance with applicable sanitation laws.

The item was heard at the May 1, 2024 LUSC meeting with direction for staff to prepare an item to bring back to the Committee for further consideration. The item was slated for the June 10, 2024 LUSC meeting, but the item was not reached and deferred.

The item was subsequently heard at the February 20, 2025 LUSC with direction to Police and Code personnel to collaborate on a plan and present at the May 8, 2025 meeting.

### **ANALYSIS**

Biscayne Bay, an aquatic preserve, lies adjacent to the City of Miami Beach and provides many environmental, recreational and economic benefits to the city and its residents. Biscayne Bay supports a variety of coastal and benthic habitats including mangroves, wetlands, corals, and seagrass beds that assist in improving water quality by absorbing excess nutrients. However, due to habitat decline, higher runoff levels from sea level rise, king tides, pollution, etc., the water quality in Biscayne Bay has degraded.

In 2017, Biscayne Bay was declared an Impaired Waterbody by the State due to nutrient parameters, specifically chlorophyll-a. Vessel pump-out log requirements may be a tool for the City to promote transparency, accountability, and responsible environmental stewardship in maritime operations, thereby helping to prevent further deterioration of water quality. In general, preventing sewage from entering Biscayne Bay is important for the health of the ecosystem.

Pursuant to Florida Statute 327.60(4)(a), the City may only enact and enforce regulations that require owners or operators of vessels or floating structures (subject to the marine sanitation requirements of Florida Statute 327.53) to provide proof of proper sewage disposal by means of an approved sewage pumpout service, approved sewage pumpout facility, or approved waste reception facility when anchored or moored for more than 10 consecutive days within the following

areas:

1. Marked boundaries of a permitted mooring field under the jurisdiction of the local government;
2. No-discharge zones as published in Volume 53, No. 13 of the Federal Register, page 1678 (1988); Volume 64, No. 164 of the Federal Register, pages 46390-46391 (1999); and Volume 67, No. 98 of the Federal Register, pages 35735-35743 (2002); or
3. No-discharge zones established pursuant to 40 C.F.R. s. 1700.10.

Ordinances adopted under this section must first be reviewed and approved by the Florida Fish and Wildlife Conservation Commission ("FWC").

None of the above presently apply in the City of Miami Beach. Nonetheless, pursuant to Florida Statute 327.60(4)(d), the City may enact and enforce sewage pumpout requirements for live-aboard vessels, floating structures, and commercial vessels (excluding commercial fishing vessels), within any areas of the City's jurisdiction.

Additionally, regarding live-aboard vessels and houseboats, Florida Statute 327.53(8) requires the owner or operator of a live-aboard vessel or houseboat that is equipped with a marine sanitation device to maintain a record of the date of each pump-out of the marine sanitation device, and the location of the pump-out station or waste reception facility. Also, each record must be maintained for 1 year after the date of the pump-out. Charters are usually equipped with holding tanks and are not legally required to pump out at any regular interval but only when necessary. As previously discussed, however, this requirement does not apply to marine compost toilets that process and manage human waste using marine compost toilet technologies that comply with United States Coast Guard ("USCG") requirements. In order to confirm that a vessel employs a compost toilet and therefore does not require a log requires visual inspection for compliance.

Understanding that Police and Code Compliance officers cannot board vessels without cause, possible options for consideration could include:

- Requiring charter vessel operators to provide an annual "affidavit" of compliance with sanitation pumpout laws as part of their annual local Business Tax Receipts ("BTR") renewal process;
- Requiring annual affidavits evidencing compliance with applicable sanitation laws to be reviewed by the Marine & Waterfront Protection Authority ("MWPA") as part of their governance of charter BTR renewal reviews, a process which already includes review of unruly operators with multiple violations; and
- Providing an annual report of compliance with affidavit requirement to the USCG for enforcement review and action.

Affidavit requirements could be similar to what the City currently does with the "Hotel Employee Panic Button" program where hotel and hostel employees must submit an affidavit with their annual BTR renewal stating that they are in compliance with the program's requirements.

It should be noted that the City's Code Compliance Department would face challenges with effectively enforcing any audit or review of vessel pumpout log requirements because of statutory and Federal regulations that prescribe these functions to the USCG. Code Compliance is not authorized to board vessels in the enforcement of City of Miami Beach Code of Laws and Ordinances. Currently, BTR and Business on Public Property with respect to vessels are enforced from docks and land — not by boarding vessels.

The topic was discussed at the June 5, 2024 Public Safety and Neighborhood Quality of Life Committee as part of discussions regarding the review of Monroe County's free mobile pump-out service for vessels program and will continue to be addressed in upcoming discussions regarding the implementation of a mooring field.

#### Vessel Pumpout Activity Investigation

Since the February 20, 2025 PSNQLC meeting, Marine Patrol officers conducted a preliminary investigation regarding vessel marine sanitation pumpouts at the Miami Beach Marina. Officers spoke with the dock master at the marina and found no evidence to suggest that vessels are violating marine sanitation pumpout regulations. Miami Beach Marina currently charges approximately \$7.00 for a marine sanitation pumpout, and due to its affordability, the vessels generally pump out every time they refuel.

Miami Beach Marina is the only marina in the City of Miami Beach that offers pumpout services, however, there are several marinas throughout Biscayne Bay that offer fuel and pumpout services to include the Bill Bird Marina in Haulover, Grandview Fuel in North Bay Village, Pelican Harbor Marina in North Bay Village, Venetian Marina in Miami, and Fisher Island. The proximity of these marinas to the City of Miami Beach offers alternative locations for vessels to fuel and pumpout.

Marine Patrol, Code Compliance and the City's Finance Department met to discuss the inclusion of an affidavit of compliance into the annual BTR renewal process. Code Compliance and Finance representatives do not have the authority to board vessels to conduct marine sanitation device inspections but would be tasked with tracking pumpout logs and denying or approving BTR renewals. Code Compliance raised concerns over the logistics of tracking these logs based on the number of resources they have. Finance would be able to add the affidavit of compliance into the BTR renewal process, but ultimately it would be Code Compliance and Marine Patrol's responsibility to conduct the investigation into the logs. There are currently no other known municipalities in Miami-Dade County which require any type of affidavit of Compliance in their BTR renewal process.

Additionally, questions regarding the possibility of increasing the current \$100 fine were raised in committee discussions. The fines for violations of various vessel-related non-criminal infractions to include marine sanitation violations under Florida Statute 327.53 are fixed by the State of Florida, as set forth in Florida Statute 327.73. Depending on the subsection violated, fines for marine sanitation violations are either \$100 or \$250. Municipalities such as the City of Miami Beach lack the authority and jurisdiction to modify the fines established by the Florida Legislature for marine sanitation violations and modification to fines would have to be implemented legislatively at the state level.

Other logistical challenges that may present themselves include tracking how many pumpouts a vessel has carried out in comparison to the number of times a vessel went underway. A vessel's time underway could be correlated to the amount of waste deposited into the marine sanitation device. An example would be a vessel owner who provides a pumpout log with 20 pumpouts for the year and then provides a separate log where the vessel is shown to have gone underway 20 times during the same period. A vessel owner may misrepresent the number of pumpouts versus the number of voyages, and there would not be a way for Marine Patrol or Code Compliance to refute the numbers.

The average size of a blackwater tank on a commercial vessel at Miami Beach Marina may range from 50-100 gallons of capacity. A vessel of the same size typically has a 150–200-gallon fuel capacity. These vessels are more likely to dock for refueling purposes than to pump out their sanitation devices. As stated previously, due to the convenience and affordability of the pumpout, vessels voluntarily pumpout when fueling. Additionally, multiple vessels at the Miami Beach Marina hold United States Coast Guard Certificates of Inspection which ensures that vessels are compliant with federal regulations, including safety and marine sanitation devices.

In line with the commitment to maintaining Biscayne Bay clean, Marine Patrol officers continue to conduct routine and randomized inspections of marine sanitation devices. As of last year, Marine Patrol officers have only issued three (3) violations for marine sanitation devices, and none were to vessels from Miami Beach Marina. Marine Patrol officers currently enforce Florida State Statute's 327.53 & 327.56 in relation to marine sanitation devices. It is worth noting that Marine Patrol does not receive any complainants regarding commercial or BTR vessels violating marine sanitation regulations and no violations to vessels have been issued.

### **FISCAL IMPACT STATEMENT**

A fiscal impact has not yet been identified.

### **CONCLUSION**

Following the research and analysis carried out by the Miami Beach Police Department, the Administration recommends that current practices be kept in place. There is no evidence to suggest that vessels in the Miami Beach Marina are violating pumpout regulations. However, Miami Beach Marine Patrol officers will continue their enforcement efforts by conducting regular and random marine sanitation device checks.

### **Applicable Area**

Citywide

#### **Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?**

No

#### **Is this item related to a G.O. Bond Project?**

No

#### **Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s):

#### **Department**

Police/Code Compliance/Legal

#### **Sponsor(s)**

Commissioner Tanya K. Bhatt

#### **Co-sponsor(s)**

Commissioner Kristen Rosen Gonzalez

#### **Condensed Title**

Discuss Charter Vessel Sanitation/Pumpout Logs.