

MIAMI BEACH

COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee Members

FROM: Eric Carpenter, City Manager

DATE: February 20, 2025

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

RECOMMENDATION

The Administration will continue to explore the implementation of various vessel-related initiatives to include a mooring field and a local pump-out service program.

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 was not reached and deferred.

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.

FISCAL IMPACT STATEMENT

A fiscal impact has not yet been identified.

CONCLUSION

To better regulate sanitary practices by both commercial and private vessels and prevent deterioration of water quality, the Administration continues to explore the implementation of various vessel-related initiatives to include a mooring field and a local pump-out service program. Discussions regarding the requirement of sanitation logs through the BTR application/renewal for vessels will be included as part of this investigative process and assessed with the potential implementation of related initiatives.

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

Sponsor(s)

Commissioner Tanya K. Bhatt

Co-sponsor(s)

Commissioner Kristen Rosen Gonzalez

Condensed Title

Discuss Charter Vessel Sanitation/Pumpout Logs.