

Mayor Clay Madden
3101 East Causeway Approach
Mandeville, LA 70448
Via Certified Mail and email to cmadden@cityofmandeville.com

September 9, 2026

Re: Destruction of Public Records

Dear Mayor Madden,

Our office represents Robert H. Berning III. This letter asks you to immediately cease the destruction of public records contained on your cell phone (number ending in 8578), which you admitted in an August 10, 2026 police report.

As background, public officials' text messages are public records if used in the performance of any work, duty, or function of a public body.¹ And the fact that a public official uses a personally-owned device is of no moment: the Louisiana Supreme Court has explained that it is "well-settled" that "records remain subject to the Public Records Law even if located on private devices or in private accounts."²

Given the public nature of public records, R.S. 44:36 places an obligation on "persons and public bodies having custody or control of any public record" to "exercise diligence and care in preserving the public record for the period or periods of time specified by law for public records." The default retention period is three years.³ Generally, public records may not be destroyed without approval from the State Archivist.⁴ There is a particular form – the SS ARC 93 – that agencies must file⁵ and have approved⁶ before destroying any records. And agencies "shall document the destruction of their records by maintaining a certificate of destruction for all records requiring destruction approval from the state archives."⁷

Furthermore, the intentional destruction of public records is a crime under Louisiana law.⁸ When public officials knowingly delete public records, they risk arrest and indictment by the Attorney General – as occurred just last year in the Town of Golden Meadow.⁹

¹ *Brumfield v. Village of Tangipahoa*, 21-0082, p. 10 (La.App. 1 Cir. 12/20/21), 340 So.3d 221, 230 (holding that "a 'public record' would also include a text message, if that text message is used in the performance of any work, duty, or function of a public body, under the authority of state or local law.")

² *PETA v. Board of Supervisors of LSU*, 387 So.3d 527, 543-544 (La. 2024) (emphasis added), *citing Brumfield, supra*; *Mercato Elisio, L.L.C. v. City of New Orleans*, 18-0081 p. 10 (La. App. 4 Cir. 11/21/18), 259 So.3d 1235, 1242 (email sent from private email account of member of public body constituted a public record where the email "was prepared, used, and possessed in accordance with" member's work with public body).

³ R.S. 44:36 (A).

⁴ Louisiana Legislative Auditor, "[Records Retention](#)," Sept. 8, 2022, at 7.

⁵ La. Admin. Code tit. 4, § XVII-903.

⁶ La. Admin. Code tit. 4, § XVII-907.

⁷ La. Admin. Code tit. 4, § XVII-913.

⁸ RS 14:132 (Injuring public records).

⁹ Piper Hutchinson, [Former Golden Meadow police chief arrested for deleting department records](#), Illuminator (Aug. 7, 2025).

Here, it is a fact that you use your cell phone with the number ending in 8578 for official city business. We know that because you gave that number to Mr. Berning so that he could contact you about his sign permit issue. And you admitted to Mandeville police officers that you received text messages on that phone regarding the sign permit issue.¹⁰

It is also a fact that you have knowingly permitted the destruction of public records on that phone. You told the police that the text messages about the sign permit issue were unavailable because of your “text messages being automatically deleted after 30 days.”¹¹

As a result, your own statements to the police confirm that you have knowingly allowed the destruction of public records. That must end now. You must either deactivate the automatic deletion function of your phone, or else engage in a copying-and-preservation process that will ensure no further public records are lost.

Please confirm with me when one of those two things has occurred.

Sincerely,



William Most

¹⁰ August 10, 2026 police report at pg. 4.

¹¹ *Id.*